

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING**

**August 30, 2018
7:00 P.M.
CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
- 3.. CONSENT ITEMS
 - i. Approval of Minutes
 - a. August 16, 2018
4. OPEN FORUM
5. NEW BUSINESS
 - A. Appeal Hearings in:
 - 1) T16-0104 Meyer v. Harris
 - 2) T17-0146 Ross v. Page
L17-0093 Page v. Tenant
6. OLD BUSINESS
 - a. Board discussion of establishing a regular policy committee
6. SCHEDULING AND REPORTS
7. ADJOURNMENT

Accessibility. This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or Spanish interpreter, please email sshannon@oaklandnet.com or call (510) 238-3715 or California relay service at 711 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantonés, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a sshannon@oaklandnet.com o llame al (510) 238-3715 o 711 por lo menos cinco días hábiles antes de la reunión. Se le pide de favor que no use perfumes a esta reunión como cortesía para los que tienen sensibilidad a los productos químicos. Gracias.

會場有適合輪椅出入設施。需要殘障輔助設施, 手語, 西班牙語, 粵語或國語翻譯服務, 請在會議前五個工作天電郵 sshannon@oaklandnet.com 或致電 (510) 238-3715 或 711 California relay service。請避免塗搽香氛產品, 參加者可能對化學成分敏感。

Service Animals/Emotional Support Animals: The City of Oakland Rent Adjustment Program is committed to providing full access to qualified persons with disabilities who use service animals or emotional support animals.

If your service animal lacks visual evidence that it is a service animal (presence of an apparel item, apparatus, etc.), then please be prepared to reasonably establish that the animal does, in fact, perform a function or task that you cannot otherwise perform.

If you will be accompanied by an emotional support animal, then you must provide documentation on letterhead from a licensed mental health professional, not more than one year old, stating that you have a mental health-related disability, that having the animal accompany you is necessary to your mental health or treatment, and that you are under his or her professional care.

Service animals and emotional support animals must be trained to behave properly in public. An animal that behaves in an unreasonably disruptive or aggressive manner (barks, growls, bites, jumps, urinates or defecates, etc.) will be removed.

**CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
Meeting
August 16, 2018
7:00 p.m.
City Hall, Hearing Room #1
One Frank H. Ogawa Plaza, Oakland, CA**

MINUTES

1. CALL TO ORDER

The HRRRB was called to order at 7:05 p.m. by Board Chair Jessie Warner

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
U. Fernandez	Tenant	X		
D. Mesaros	Tenant	X		
T. Mason	Tenant alt.		X	
Ed Lai	Homeowner Alt.	X		
R. Stone	Homeowner	X		
M. Cook	Homeowner			X
J. Warner	Homeowner	X		
K. Blackburn.	Homeowner Alt.			X
K. Friedman	Landlord	X		
B. Scott	Landlord Alt.			X
D. Madison	Landlord Alt.		X	

Staff Present

Luz Buitrago Deputy City Attorney
Barbara Cohen Hearing Officer

3. CONSENT ITEMS

a. Board Minutes, July 26, 2018

J. Warner moved to change Section 4 OPEN FORUM SPEAKERS to reflect that James Vann and Susan Schacher (who yielded her time to James Vann) spoke once under OPEN FORM and again in item 6C, the Staff Report on Substantial Rehabilitation.

E. Lai moved to approve the minutes as corrected. U. Fernandez seconded. The Board voted as follows:

Aye: U. Fernandez, D. Mesaros, E. Lai, J. Warner, R. Stone, K. Friedman

Nay: 0
Abstain: 0

The motion was approved by consensus.

4. OPEN FORUM SPEAKERS

No one signed up to speak under OPEN FORUM.

5. NEW BUSINESS

J. Warner moved to change the agenda order to hear item 5B, the Rent Efficiency Ordinance Report, first. E. Lai seconded.

Aye: U. Fernandez, D. Mesaros, E. Lai, J. Warner, R. Stone, K. Friedman
Nay: 0
Abstain: 0

The motion was approved by consensus.

B. Rent Efficiency Ordinance Report-Richard Illgen, City Attorney's Office

R. Illgen presented a report to the Board about the large number of appeals backlogged in the system and an expected continued increase in the number of appeals coming to the Board. Because of the number of cases, the RAP Program is looking at a way to address the system to create more efficiency and is bringing an Ordinance to the City Council to change the system. The changes include the following:

- a) Ability to hear up to 5 cases at the Board.
- b) Limit the amount of time people can speak at appeals Hearings with the Board's ability to increase the time if necessary.
- c) Increase Board member's term limits
- d) Limit appeals to full Board to those appeals that present significant policy issues or are exemption cases
- e) Remove right to request a full Board
- f) Have simple appeals go to a single Hearing Officer
- g) More stringent attendance requirements for the Board
- h) The City Attorney can provide more help in analyzing the cases so that both the Board and the parties know what the relevant issues are.

The Board asked questions of and provided comments to R. Illgen.

J. Vann spoke to the Board on this issue.

A. Hearing in appeal cases:

1. T16-0374, Beard v. Stewart

Appearances: Nancy Conway, Esq. Tenant Appellant Representative
 Greg McConnell Owner Appellee Representative

Barbara Cohen recused herself from participation in this case.

Tenant Appeal

The tenant appealed from denial of certain of the tenant's claims of decreased housing service claims claiming lack of substantial evidence. The tenant contended the decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior Board decisions; the decision is inconsistent with decisions issued by other Hearing Officers; the decision violates federal, state or local laws; and the decision is not supported by substantial evidence.

Both parties presented arguments and responded to questions.

After questions to the parties and Board discussion, E. Lai moved to affirm the Hearing Decision based on substantial evidence. K. Friedman seconded. The Board voted as follows:

Aye: U. Fernandez, D. Mesaros, E. Lai, R. Stone, J. Warner, K. Friedman

Nay: 0

Abstain: 0

The motion was approved by consensus.

2. T15-0626, Lyngen v. Beacon

Appearances: Erik Lyngen, Tenant Appellant
 Karen Graf, Owner Appellee
 Aaron Young, Owner Appellee Representative

Tenant Appeal

The tenant appealed from a Hearing Decision on Remand which found that the owner had reasonably and diligently pursued completion of the work and allowed a 100% capital improvement pass through, rather than a previously ordered 70% pass through in the prior Hearing Decision. The Board had remanded the case to the Hearing Officer after a prior appeal to hold a Hearing to determine if the owner acted with due diligence.

The tenant contended that there were math or clerical errors in the Hearing Decision on Remand; that the decision raises a new policy issue that has not been decided by the Board; and that the decision violates federal, state or local laws.

Both parties presented arguments and responded to questions.

After questions to the parties and Board discussion, R. Stone moved to reject the Hearing Decision on Remand based on the lack of substantial evidence and to accept the prior decision allowing a 70% pass through. U. Fernandez seconded. The Board voted as follows:

Aye: U. Fernandez, D. Mesaros, R. Stone, J. Warner
Nay: E. Lai, K. Friedman
Abstain: 0

The motion was approved.

C. Board discussion of establishing a regular policy committee

U. Fernandez moved to continue the Board meeting past 10:00 p.m. time for the discussion to be held re: a policy committee. R. Stone seconded. The Board voted as follows:

Aye: U. Fernandez, D. Mesaros, R. Stone, J. Warner, E. Lai
Nay: K. Friedman
Abstain: 0

The motion was approved and the Board decided to discuss the matter until a quorum is lost.

E. Lai discussed his idea to develop a policy committee to discuss necessary Ordinance changes to remove and revise outdated language.

K. Friedman discussed her idea to have a committee to develop rules under which the Board operates.

A decision was made to put this discussion back on the agenda when there is more time to discuss it.

6. SCHEDULING & REPORTS

7. ADJOURNMENT

The meeting was adjourned by consensus at 10:00 p.m.

CHRONOLOGICAL CASE REPORT

Case Nos.: T16-0104
Case Name: Meyer v. Harris
Property Address: 2509 109th Ave., #D, Oakland, CA
Parties: Simone Meyer (Tenant)
Fareed Traylor (Tenant)
Roderick Harris, Jr. (Property Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	February 16, 2016
No Owner Response filed	
Hearing Decision issued	September 28, 2016
Owner Appeal filed	October 14, 2016
Tenant Responses to Owner's Appeal	November 1, 2017 July 17, 2018

Tile 0104 RC/BC

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp: ALLEN FREEMAN 2016 FEB 16 PM 2:52
--	--

Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Simone Meyer Fareed Traylor	Rental Address (with zip code) 2509 109th Ave #D Oakland CA 94603	Telephone (415) 290-1004 (510) 472-3430
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Rod Harris	Mailing Address (with zip code)	Telephone (510) 593-9094

Number of units on the property: 4

Type of unit you rent (circle one)	House	Condominium	Apartment, Room, or Live-Work
Are you current on your rent? (circle one)	Yes	No	Legally Withholding Rent. You must attach an explanation and citation of code violation.

I. GROUNDS FOR PETITION: Check all that apply. You must check at least one box. For all of the grounds for a petition see OMC 8.22.070 and OMC 8.22.090. **I (We) contest one or more rent increases on one or more of the following grounds:**

<input type="checkbox"/>	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/>	(e) A City of Oakland form notice of the existence of the Rent Program was not given to me at least six months before the effective date of the rent increase(s) I am contesting.
<input checked="" type="checkbox"/>	(f1) The housing services I am being provided have decreased. (Complete Section III on following page)
<input checked="" type="checkbox"/>	(f2) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input type="checkbox"/>	(g) The contested increase is the second rent increase in a 12-month period.
<input type="checkbox"/>	(h) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the enhanced notice was not filed with the RAP.
<input type="checkbox"/>	(i) My rent was not reduced after the expiration period of the rent increase based on capital improvements.
<input type="checkbox"/>	(j) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
<input type="checkbox"/>	(k) I wish to contest an exemption from the Rent Adjustment Ordinance (OMC 8.22, Article I)

II. RENTAL HISTORY: (You must complete this section)

Date you moved into the Unit: Oct 2015 Initial Rent: \$ 1250 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: Never. If never provided, enter "Never."

- Is your rent subsidized or controlled by any government agency, including HUD (Section 8)? Yes No

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. You must check "Yes" next to each increase that you are challenging.

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 60 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you never got the RAP Notice you can contest all past increases.

List case number(s) of all Petition(s) you have ever filed for this rental unit: _____

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for service problems, you must complete this section.

- Are you being charged for services originally paid by the owner? Yes No
- Have you lost services originally provided by the owner or have the conditions changed? Yes No
- Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

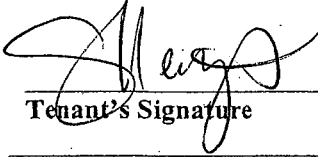
If you answered "Yes" to any of the above, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include at least the following: 1) a list of the lost housing service(s) or serious problem(s); 2) the date the loss(es) began or the date you began paying for the service(s); and 3) how you calculate the dollar value of lost problem(s) or service(s). Please attach documentary evidence if available.

To have a unit inspected and code violations cited, contact the City of Oakland, Code Compliance Unit, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, CA 94612. Phone: (510) 238-3381

Please see behind

IV. VERIFICATION: The tenant must sign:

I declare under penalty of perjury pursuant to the laws of the State of California that everything I said in this petition is true and that all of the documents attached to the petition are true copies of the originals.



Tenant's Signature

02/16/10

Date

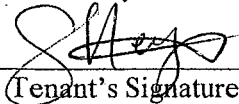
V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal hearing before a Rent Adjustment Program Hearing Officer the same day.

You may choose to have the mediation conducted by a Rent Adjustment Program Hearing Officer or select an outside mediator. Rent Adjustment Program Hearing Officers conduct mediation sessions free of charge. If you and the owner agree to an outside mediator, please call (510) 238-3721 to make arrangements. Any fees charged by an outside mediator for mediation of rent disputes will be the responsibility of the parties requesting the use of their services.

Mediation will be scheduled only if both parties agree (after both your petition and the owner's response have been filed with the Rent Adjustment Program). **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** Rent Board Regulation 8.22.100.A.

If you want to schedule your case for mediation, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff Hearing Officer (no charge).



Tenant's Signature

2/16/10

Date

VI. IMPORTANT INFORMATION:

Time to File This form must be received at the offices of the City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612 within the time limit for filing a petition set out in the Rent Adjustment Ordinance, Oakland Municipal Code, Chapter 8.22. Board Staff cannot grant an extension of time to file your petition by phone. For more information, please call: (510) 238-3721.

File Review

The owner is required to file a Response to this petition within 35 days of notification by the Rent Adjustment Program. You will be mailed a copy of the Landlord's Response form. Copies of documents attached to the Response form will not be sent to you. However, you may review these in the Rent Program office by appointment. For an appointment to review a file call (510) 238-3721; please allow six weeks from the date of filing before scheduling a file review.

VII. HOW DID YOU LEARN ABOUT THE RENT ADJUSTMENT PROGRAM?

- Printed form provided by the owner
- Pamphlet distributed by the Rent Adjustment Program
- Legal services or community organization
- Sign on bus or bus shelter
- Other (describe): called & was referred

My fiance & I moved into our apt at 2509 109th Ave #D
Oakland CA 94603 in Oct. 2015. When we originally moved in
we waived our deposit stating that we need to clean the
apt. & fix all that was broken or missing. We moved in there
was no refrigerator till this day, no heater (its broken) rug was
dirty. back door does not open its locked indefinitely. no lock
for front door just lock for gate. The bathroom sink had a
major leak which we eventually had to fix ourselves. Then
in Nov. is our hot water heater just stopped working. My
fiance called the land lord to inform him and we were told
that it wasnt his problem that we needed to fix it our
selves. My fiance went downstairs to check it out and
was appalled to find the laundry room which held the
water heaters filled with feces and it was so bad he
could not even step inside to fix the water heater it
was filled up in there. it was outside the bldg as well.
He then called the land lord and informed him again
and still nothing was done & we were told again that
we needed to clean and fix it up. The whole apt. bldg
is a mess. We called the City of Oakland and inspector
came and filed. they told us to come to the Rent Board
and file paper work as well. We believe our loss
is at ~~100~~ 100% we have been without hot water since
November 2015. I'm also 5 months pregnant. The whole apt.
old living conditions are bad for anyone to live there

000012 Thanks



P.O. BOX 70243, OAKLAND, CA 94612-2043

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254

HEARING DECISION

CASE NUMBER: T16-0104, Meyer v. Harris
PROPERTY ADDRESS: 2509 109th Ave, #D, Oakland, CA
DATE OF HEARING: September 22, 2016
DATE OF DECISION: September 28, 2016
APPEARANCES: Simone Meyer, Tenant
Fareed Traylor, Tenant
Rob Harris, Owner

SUMMARY OF DECISION

The tenant's petition is granted. The legal rent for the subject unit is listed in the Order below.

CONTENTIONS OF THE PARTIES

Tenants Simone Meyer and Fareed Traylor filed a petition which alleges that their housing services have decreased and that at present there exists a health, safety, fire, or building code violation in the unit. Their list of decreased services included no refrigerator in their unit; no working heater; dirty rug; back door does not open; no lock on front door; bathroom sink leaked and they had to repair it themselves; hot water heater broken; and a sewer leak in the laundry room.

The owner never filed a response to the petition.

///

///

THE ISSUES

1. Is there good cause for the failure of the owner to file a response to the tenant petition?
2. When, if ever, was the *RAP Notice* first served on the tenants?
3. Have the tenant's housing services been decreased, and if so, by what percentage of the total housing services that are provided by the owner?
4. What restitution is owed between the parties and how does it affect the rent?

EVIDENCE

Owner Response: The owner testified that he received the *Tenant Petition* along with a letter informing him that he had to file a response within 35 days of receipt of the tenant petition. He did not file a response. The owner did not have an explanation about why he did not file a response.

Rental History: The tenants testified that they moved into the unit in October of 2015 at an initial rent of \$1,250 a month. It is a four plex. When they moved in the owner told them that the unit was being rented "as is." They were never provided with a *RAP Notice*.

At the time they filed their petition they were current on their rent. They started falling behind on the rent in March of 2016 because Ms. Meyer lost her job. As of the day of the Hearing they owed rent for August and September of 2016.

On cross-examination the tenants denied being behind on their rent at the time they filed their petition. The owner did not cross-examine the tenants on their testimony that they had not received the *RAP Notice*.

Decreased Housing Services:

No refrigerator: When they moved into the rental unit the unit did not have a refrigerator. The tenants provided their own mini-fridge, about the size of a cooler, to keep food cold, but it was not sufficient for their needs. About three weeks ago they purchased a full sized refrigerator, but it only worked for a few weeks before it stopped working because the compressor failed.

The tenants spoke to Mr. Harris about the lack of a refrigerator in the unit. He told them that if they could move the refrigerator themselves they could take one from one of the empty rental units in the building. They were not able to do so.

On cross-examination the owner asked the Fareed Traylor, "didn't I tell you when you moved in that there was no refrigerator in there?"¹ Traylor responded that he noticed there wasn't a refrigerator after he signed the lease. He further testified that "maybe" he

¹ Tape recording: 24:20-24:32

was told that there wasn't a refrigerator in the unit. Additionally, Traylor testified that they were told the unit was being provided "as is."

No working heater: The tenants testified that their unit has a single wall heater in the center of their unit. This heater was not working when they moved in. The covering of the heater was not on the device. They complained about it to the owner immediately when they moved in. It was repaired in August of 2016. The tenants had no working heat for the entirety of the winter of 2015-2016. (They used the oven to heat the unit.)

Dirty rug: The tenants dismissed this claim at the Hearing.

Back door does not open: The tenants testified that when they moved into the unit their back door was locked with a deadbolt and they were not given a key to this lock. This created a situation where they had no secondary exit from their unit.

The tenants further testified that they did not complain to the owner about this, but he should have given them a key to this lock when he moved them into the unit.

After many months of living with this locked door, one month ago the tenants had a friend over who completely removed the lock from the door. They can now open and close this door and lock it from the handle.

No lock on front door: The tenants testified that since they rented the unit from the owner the front door does not lock at all and the key they have does not operate the door. There is a locking security gate. They complained to the owner when they moved in, and he informed them to just lock the security gate. This door is still in the same condition as when they moved into the unit.

On cross-examination the tenants testified that the front door has a lock, but that they don't have a key to that lock. The only lock they were given a key for is the lock on the security gate.

Bathroom sink leaked: The tenants testified that soon after they moved in, there was a major leak in the bathroom sink. The leak was from the "u" pipe underneath the drain, and only leaked when the water was turned on. The tenants did not tell the owner about the leak. Simone Meyer's dad replaced the sink and the pipes at a cost of \$550. They had to replace the sink because it was old and rusted.

The tenants further testified that they had a verbal agreement with the owner that anything that they repaired, he would reimburse the tenants. The owner found out about the leak at some point when he came to collect rent and noticed the old bathroom sink outside the unit. This was after the repair had been completed. They have not yet asked the owner to reimburse them for the money they paid to repair the sink.

Hot water heater broken: The tenants testified that when they moved into the unit the water heater worked. In late November of 2015, the water heater stopped working. Fareed tried to investigate the hot water heater, which is in the laundry room, and he

couldn't get in because there was a massive sewage leak. The sewage appeared to be coming up from the center of the laundry room floor. (See sewer leak below.) The tenants complained to the owner but he did not repair the water heater.

In March of 2016, the tenants called *PG&E*, who came and investigated the water heater. The worker was able to repair the water heater by turning the pilot light back on. When *PG&E* came, the sewer leak had been repaired so they were able to access the water heater unit in the laundry room.

Sewer leak in the laundry room: The tenants testified that the sewer leak that they discovered in the laundry room caused horrible smells throughout their unit for several months. They informed the owner about it when they first saw it in November of 2015, but it did not get repaired until March of 2016. In February of 2016, the City of Oakland had an inspector come to the building. They do not know if a *Notice of Violation* was issued.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Is there good cause for the Owner's failure to respond to the petition?

The Rent Adjustment Ordinance requires an owner to file a response to a tenant petition within 35 days after service of a notice by the Rent Adjustment Program (RAP) that a tenant petition was filed.² "If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . ."³

The owner did not have an explanation for why he did not respond to the tenant petition. There is no good cause for the owner's failure to file a response to the petition. Therefore, the owner's participation at the Hearing was limited to cross-examination and providing a summation.⁴

When, if ever, were the tenants served with the *RAP Notice*?

The Rent Adjustment Ordinance requires an owner to serve the *RAP Notice* at the start of a tenancy⁵ and together with any notice of rent increase or change in the terms of a tenancy.⁶ An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.⁷ The tenants credibly testified that they never received a *RAP Notice* when they moved into the unit, or at any time since. The owner did not cross-examine the tenants on this issue.

It is found that the tenants have not received the *RAP Notice*.

² O.M.C. § 8.22.090(B)

³ O.M.C. § 8.22.070(C)(2)

⁴ Board Decision in *Santiago v. Vega*, *HRRRB*, T02-0404.

⁵ O.M.C. § 8.22.060(A)

⁶ O.M.C. § 8.22.070(H)(1)(A)

⁷ O.M.C. § 8.22.060 (C)

Have the tenants' housing services been decreased?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent⁸ and may be corrected by a rent adjustment.⁹ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy that is no longer being provided.

In a decreased housing services case tenants must establish that they have given the owner notice of the problems and the opportunity to fix the problems before they are entitled to relief.

Further, in a decreased services case, where the *RAP Notice* has been given at the beginning of a tenancy, tenants are only allowed relief for 60 days prior to the filing of the petition¹⁰. However, where no *RAP Notice* was given before the tenant petition was filed, the tenants can seek restitution for up to three years. Here, since no *RAP Notice* was ever given, the tenants are entitled to restitution for conditions as far back as when they moved into the unit in October of 2015.

The tenants' claims of decreased services are discussed below:

No refrigerator: The tenants' have established that they were never given a refrigerator in their unit. While the owner tried to argue that the unit was provided "as is" and did not come with a refrigerator, the Oakland Building Maintenance Code requires that a refrigerator be provided with every rental unit.

"Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with an approved kitchen sink, cooking appliance, refrigeration appliance and cabinet for storing food....."¹¹

While it appears to be true that the tenants agreed to take the unit "as is", parties cannot agree to violate a rent control ordinance.¹² Nor can parties agree to violate a law established for a public reason.¹³ Here, the Oakland Building Maintenance Code requirement that a refrigerator be provided with every dwelling, was clearly enacted for a public reason. The parties cannot agree to violate this law.

The tenants are entitled to an ongoing rent decrease of 10% (\$125) as well as restitution for overpaid rent since they moved into the unit for the lack of a refrigerator.

⁸ O.M.C. § 8.22.070(F)

⁹ O.M.C. § 8.22.110(E)

¹⁰ Board Decision in *Lindsey v. Grimsley, et al.*, HRRRB T09-0086

¹¹ O.M.C. § 15.08.230 (C)

¹² *Gombiner v. Swartz*, 167 Cal.App. 4th 1365 (2008)

¹³ A law established for a public reason cannot be contravened by a private agreement.; see e.g. *Gruzen v. Henry* (1978) 84 Cal.App.3d 515, 517.

No working heater: The tenants were believable that they had no working heater from when they moved into their unit until August of 2016. "All habitable space shall be provided with heating facilities capable of maintaining a room temperature of 68° F at a point 3 feet above the floor." O.M.C. § 15.08.260. Failure to provide a working heater is a habitability violation.

The tenants are entitled to restitution of overpaid rent of 10% (\$125 a month) from when they moved into the unit until August of 2016, when heat was restored to their unit.

Dirty rug: The tenants dismissed this claim at the Hearing.

Back door does not open: The tenants established that when they moved into the unit, their back door was locked shut and they were not given a key. Failure to provide a key to this exit is a safety concern.

The tenants are entitled to restitution of overpaid rent of 5% (\$67.50 a month) from when they moved into the unit until August of 2016, when they took the lock off the door, providing access.

No lock on front door: The tenants established that they were not provided a key for the front door when they were rented the unit. This is a safety concern.

The tenants are entitled to an ongoing rent decrease of 2% (\$25.00 a month), as well as restitution of overpaid rent for the lack of a key to the front door.

Bathroom sink leaked: The tenants established that there was a leak in their bathroom sink. However, they did not complain to the owner about it, before they took it upon themselves to repair it. Unlike the other claims, which were in effect from the time they rented the unit and were known to the owner, this problem happened after the tenants were living in the unit for some time.

Additionally, even if they had an agreement with the owner to repair and deduct, the tenants still have to inform the owner of the problem before they do so.

This claim is denied.

Hot water heater broken: The tenants established that the water heater broke at the end of November of 2015 and they informed the owner, who did not repair it. The tenants were not able to relight the pilot themselves because of the sewage leak in the laundry room, where the water heaters are installed. Lack of hot water is a habitability violation.¹⁴

The tenants were able to have *PG&E* relight the pilot after the sewage leak was repaired.

¹⁴ O.M.C. § 15.08.230 (D)

The tenants are entitled to restitution of overpaid rent of 10% of the rent (\$125 a month) from December 2015-February of 2016, when the hot water was restored. This would have given the owner one week to restore the hot water, after he was informed of the problem in November of 2015.

Sewer leak in the laundry room: A sewage leak is a health hazard and a habitability violation. The tenants established that there was a sewage leak in the laundry room, which caused odors throughout their apartment. This leak should have been repaired within a week of the owner being informed of the problem, by the beginning of December of 2015. However, while the tenants testified that the sewer leak was repaired in March 2016, they also testified that it was repaired by the time that *PG&E* came to relight the pilot on the water heater, which was at the end of February of 2016. Therefore, it is found that this was repaired by the end of February of 2016.

The tenants are entitled to restitution of overpaid rent of 10% of the rent (\$125 a month) from December 2015-February of 2016, when the leak was repaired.

What restitution is owed between the parties and how does it impact the rent?

As noted above, the tenants' base rent is \$1,250 a month. As shown on the chart below, the tenant has underpaid rent in the amount of \$2,500.

Because of the ongoing problems associated with the lack of a refrigerator and the lack of a key to the front door lock, the tenant is entitled to an ongoing rent decrease of 12%, (\$150 a month.) Before consideration of restitution, the tenants' current legal rent is \$1,100 a month.

Additionally, according to the chart below, the tenants are owed restitution in the amount of \$4,612.50 for past decreased services. The total overpayment (decreased services minus rent underpayments) totals \$2,112.50.

///
///
///
///
///
///
///
///
///

VALUE OF LOST SERVICES

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
No refrigerator	1-Oct-15	30-Sep-16	\$1,250	10%	\$ 125.00	12	\$ 1,500.00
No Heater	1-Oct-15	31-Aug-16	\$1,250	10%	\$ 125.00	11	\$ 1,375.00
Back Door	1-Oct-15	31-Aug-16	\$1,250	5%	\$ 62.50	11	\$ 687.50
No Key to Front door	1-Oct-15	30-Sep-16	\$1,250	2%	\$ 25.00	12	\$ 300.00
Hot Water Heater	1-Dec-15	28-Feb-16	\$1,250	10%	\$ 125.00	3	\$ 375.00
Sewer Leak	1-Dec-15	29-Feb-16	\$1,250	10%	\$ 125.00	3	\$ 375.00
TOTAL LOST SERVICES							\$ 4,612.50

UNDERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Aug-16	30-Sep-16	\$0	\$1,250	\$ (1,250.00)	2	\$ (2,500.00)
TOTAL UNDERPAID RENT						\$ (2,500.00)

RESTITUTION

MONTHLY RENT		\$1,250
TOTAL TO BE REPAID TO TENANT		\$ 2,112.50
TOTAL AS PERCENT OF MONTHLY RENT		169%
AMORTIZED OVER	12 MO. BY REG. IS	\$ 176.04

Overpayments of this size are normally adjusted over a period of 12 months¹⁵. For now this \$176.04 a month is subtracted from the current legal rent of \$1,100 for a total rent of \$923.96 a month. From October of 2016 through September of 2017, the tenants' rent is \$923.96.

However, should the owner provide a refrigerator, the owner can increase the rent by 10% or \$125.00 a month. If the owner provides a key for the front door lock, the owner can increase the rent by 2% or \$25 a month. In order to increase the rent after repairs the owner must provide the necessary notice pursuant to Civil Code § 827.

Additionally, if the owner wishes to pay the tenants the restitution in one lump sum, he has the authority to do so. If the owner pays the tenants restitution, the tenants must stop deducting the restitution.

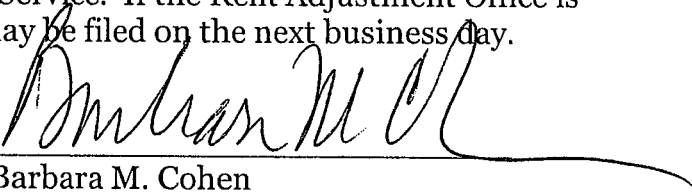
If the tenants have already paid October 2016 rent, in an amount greater than \$923.96, they can deduct any overpayment from their November 2016 rent.

¹⁵ Regulations, Section 8.22.110(F)

ORDER

1. Petition T16-0104 is granted in part.
2. The base rent for the unit is \$1,250.
3. Due to ongoing decreased housing services, the tenants are entitled to an ongoing rent decrease of 12% (\$150 a month.) The tenants' current legal rent, before consideration of restitution, is \$1,100 a month.
4. Due to past decreased services and underpaid rent, the tenants are owed restitution of \$2,112.50. This overpayment is adjusted by a rent decrease for the next 12 months in the amount of \$176.04 a month.
5. The tenants' rent for the months of October 2016 through September of 2017 is \$923.96 per month. The rent reverts to \$1,100 a month in October of 2017 (if the refrigerator has not been provided and the key to the front lock has not been provided).
6. If the tenants have already paid October rent, in an amount greater than \$923.96, they can deduct any overpayment from their November 2016 rent.
7. If the owner wishes to, he can repay the restitution owed to the tenants at any time. If he does so, the monthly decrease for restitution ends at the time the tenants are provided restitution.
8. If the owner provides a refrigerator, the owner can increase the tenants' rent by \$125.00 a month. If the owner provides a key to the front door, the owner can increase the tenants' rent by \$25 a month. **In order to increase the rent after repairs the owner must provide the necessary notice pursuant to Civil Code § 827.**
9. Nothing in this Order prevents the owner from increasing the rent at any time 6 months after the tenants are first served with the *RAP Notice*, provided that the rent increase notice is served pursuant to Civil Code § 827 and the Rent Adjustment Ordinance.
10. **Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: September 28, 2016



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0104

I am a resident of the State of California at least eighteen years of age. I am not a party to the Residential Rent Adjustment Program case listed above. I am employed in Alameda County, California. My business address is 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California 94612.

Today, I served the attached Hearing Decision by placing a true copy of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Tenants

Fareed Traylor
2509 109th Ave #D
Oakland, CA 94603

Simone Meyer
2509 109th Ave #D
Oakland, CA 94603


Owner

Rod Harris
2509 109th Ave
Oakland, CA 94603

Roderick Harris, Jr.
1953 102nd Ave
Oakland, CA 94603

I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first class postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 28, 2016 in Oakland, CA.



Esther K. Rush

2016 OCT 14 PM 12:26

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		APPEAL	
Appellant's Name Roderick Harris, Jr.		Landlord <input checked="" type="checkbox"/> Tenant <input type="checkbox"/>	
Property Address (Include Unit Number) 2509 109th AVE #0 Oakland, CA 94603		(510) 593-9094	
Appellant's Mailing Address (For receipt of notices) 1953 102nd AVE Oakland, CA 94603		Case Number 716-0104	
		Date of Decision appealed September 28, 2016	
Name of Representative (if any)		Representative's Mailing Address (For notices)	

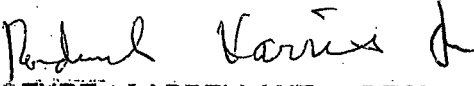
Appeal the decision issued in the case and on the date written above on the following grounds:
(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

1. The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
2. The decision is inconsistent with decisions issued by other hearing officers. You must identify the prior inconsistent decision and explain how the decision is inconsistent.
3. The decision raises a new policy issue that has not been decided by the Board. You must provide a detailed statement of the issue and why the issue should be decided in your favor.
4. The decision is not supported by substantial evidence. You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.
5. I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. You must explain how you were denied a sufficient opportunity and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.
6. The decision denies me a fair return on my investment. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.

7. Other. You must attach a detailed explanation of your grounds for appeal. Submissions to the Board are limited to 25 pages from each party. Number of pages attached . Please number attached pages consecutively.

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on Oct 14, 2016, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Simone Meyer and Fared Traylor
Address	2509 109 th AVE #D
City, State Zip	Oakland, CA 94603
Name	
Address	
City, State Zip	

	10/14/16
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file is a weekend or holiday, the time to file the document is extended to the next business day.

- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment Program by 3:00 p.m. on the 8th day before the appeal hearing.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.

Appellant's Name: Roderick Harris, Jr. Landlord

Property Address: 2509 109th Ave #D Oakland, CA 94603

Appellant's Mailing Address: 1953 102nd Ave Oakland, CA 94603

Case Number: T16-0104

Date of Decision appealed: September 28, 2016

I appeal the decision issued in the case and on the date written above on the following grounds. I was denied sufficient opportunity to present my claim or respond to the petitioner's claim. Notification regarding this case was mailed to me at the incorrect address which did not afford me the 35 days which should have been granted for a written response to be filed. The notice was sent to the property address and not my mailing address. The notice was given to me on September 2, 2016 by the tenant at 2509 109th Ave Apt. A. Furthermore, not receiving the notification in a timely manner made it impossible to submit evidence to support my case to the Rent Adjustment Board.

As a result, there were several issues presented to which I was not able to provide evidence for dispute:

1. The security door on the immediate doorway entrance to the unit had a working lock to which they had the key.

2. The sewage leak was repaired four days after the owner was notified. The complainants were the only tenants in the building at the time. The plumber found a backup cause by feminine products and rice. *Tenant notified city before landlord*

3. The wall heater was operable, the pilot light just need to be lit.

4. While the tenants were current on rent at the time the petition was filed, they began falling behind two months after they moved in.

10/23/2017 (RO)

Please excuse the mistakes scribbled out.
(apologize)

RECEIVED

NOV 01 2017

To whom it may concern,

RENT ADJUSTMENT PROGRAM
OAKLAND

Case # T16-0104 Meyer vs. Harris
Property address 2509 109th Ave. Oakland,
Ca 94603. APFD

Last year my fiancé and I (Fareed Traylor and Simone Meyer) ~~had~~ had a case hearing against our landlord not providing the proper locks for our doors/new door, a new refrigerator, we went a whole year without a proper working fridge and 3 months without ~~hot~~ hot water while I was 3 months pregnant) Our rent was reduced because of these inconveniences and the landlord was ordered to replace everything. As of today 10/23/17, he ~~had~~ had not done ~~anything~~ anything of what was ordered for him to do. I am ~~replying~~ replying to the appeal for those reasons. Nothing has been fixed or replaced so far. We feel our rent should stay reduced until he fixes what was ordered by the hearing board. There are other stuff that we found after the hearing that is not up to date or needs to be fixed around the apartment. For example, the mold in ceiling and our oven is not working anymore etc. But that I will proceed on a separate complaint. Thank you for your cooperation.

Regards,

000026

(650)-290-1056

Fareed Traylor, Simone Meyer

RECEIVED

JUL 17 2018

CASE# T16-0104

Meyer vs. Harris

RENT ADJUSTMENT PROGRAM
OAKLAND

07/10/2018

Dear Rental Adjustment Panel

I am writing in regards to the appeal hearing we have scheduled Thursday July 19, 2018 @ 7pm.

I wanted to inform the panel that since the last hearing, our landlord/owner Roderick Harris has made the following adjustments. He replaced the front door locks.

Per the Rent Adjustment decision the landlord was to replace the front door locks and buy a refrigerator for the apartment, we bought one but been without a fridge for two years before. He said he was going to buy a new fridge and still has not done so. We have found more issues within the apartment but will get that taken care of soon. We are willing to work with the landlord but need him to work with us in a more professional

000027

which he has not done so far.
He has cussed me out in
front of our neighbors and
neighborhood discussing my
private affairs out loud for
all to hear.

We will comply with any
order but ask for professionalism
and respect.

Thank You for the Opportunity
to hear me/us out.

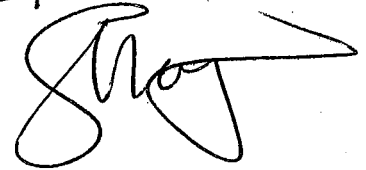
My fiancé Fozed Traylor is
unable to attend, he has work
out of state.

Hoping for a positive
and compromising solution

Thank You

Simone Meyer

(250) 290-1004



CHRONOLOGICAL CASE REPORT

Consolidated Case Nos: T17-0146 & L17-0093

Case Names: Ross v. Page & Page v. Tenant

Property Address: 6859 Fresno Street, Oakland, CA

Parties: William Page (Property Owner)
Verna Ross (Tenant)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	March 1, 2017
Owner filed Response	May 3, 2017
Landlord Petition for Certificate of Exemption filed	May 23, 2017
Tenant Response filed	July 11, 2017
Hearing Decision	January 2, 2018
Tenant Appeal filed	January 23, 2018
Tenant filed Appeal Brief	February 8, 2018

T17-0146 Re/BC

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>For date stamp. 2017 MAR -1 PM 4:51</p>
---	---

Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Verna J. Ross	Rental Address (with zip code) 6859 Fresno St. 2nd Fl. Oakland, CA 94605	Telephone 510-472-2700(c)
Your Representative's Name n/a	Mailing Address (with zip code) P.O. Box 23371 Oakland, CA 94605	Telephone n/a
Property Owner(s) name(s) William R. Page, JR - 50% Wendy Ruth Page Madison - 50% (deceased)	Mailing Address (with zip code) 6859 Fresno St. Oakland, CA 94605	Telephone 510-504-2316(c)

Number of units on the property: 4

Type of unit you rent (circle one)	House	Condominium	Apartment, <u>Room</u> or Live-Work
Are you current on your rent? (circle one)	<u>Yes</u>	No	Legally Withholding Rent. You must attach an explanation and citation of code violation.

I. GROUNDS FOR PETITION: Check all that apply. You must check at least one box. For all of the grounds for a petition see OMC 8.22.070 and OMC 8.22.090. **I (We) contest one or more rent increases on one or more of the following grounds:**

<input checked="" type="checkbox"/> (a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input checked="" type="checkbox"/> (b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/> (c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input type="checkbox"/> (d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input checked="" type="checkbox"/> (e) A City of Oakland form notice of the existence of the Rent Program was not given to me at least six months before the effective date of the rent increase(s) I am contesting.
<input checked="" type="checkbox"/> (f1) The housing services I am being provided have decreased. (Complete Section III on following page)
<input checked="" type="checkbox"/> (f2) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input checked="" type="checkbox"/> (g) The contested increase is the second rent increase in a 12-month period.
<input checked="" type="checkbox"/> (h) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the enhanced notice was not filed with the RAP.
<input type="checkbox"/> (i) My rent was not reduced after the expiration period of the rent increase based on capital improvements.
<input type="checkbox"/> (j) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
<input type="checkbox"/> (k) I wish to contest an exemption from the Rent Adjustment Ordinance (OMC 8.22, Article I)

II. RENTAL HISTORY: (You must complete this section)

Date you moved into the Unit: May 2014 Initial Rent: \$ 600.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 12/31/16. If never provided, enter "Never."

- Is your rent subsidized or controlled by any government agency, including HUD (Section 8)? Yes No

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. You must check "Yes" next to each increase that you are challenging.

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>12/31/16</u>	<u>2/1/17</u>	\$ <u>600.00</u>	\$ <u>660.00</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 60 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you never got the RAP Notice you can contest all past increases.

List case number(s) of all Petition(s) you have ever filed for this rental unit: 0

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for service problems, you must complete this section.

- Are you being charged for services originally paid by the owner? Yes No
- Have you lost services originally provided by the owner or have the conditions changed? Yes No
- Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

If you answered "Yes" to any of the above, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include at least the following: 1) a list of the lost housing service(s) or serious problem(s); 2) the date the loss(es) began or the date you began paying for the service(s); and 3) how you calculate the dollar value of lost problem(s) or service(s). Please attach documentary evidence if available.

To have a unit inspected and code violations cited, contact the City of Oakland, Code Compliance Unit, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, CA 94612. Phone: (510) 238-3381

IV. VERIFICATION: The tenant must sign:

I declare under penalty of perjury pursuant to the laws of the State of California that everything I said in this petition is true and that all of the documents attached to the petition are true copies of the originals.

Verna J. Ross
Tenant's Signature

2/28/17
Date

V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal hearing before a Rent Adjustment Program Hearing Officer the same day.

You may choose to have the mediation conducted by a Rent Adjustment Program Hearing Officer or select an outside mediator. Rent Adjustment Program Hearing Officers conduct mediation sessions free of charge. If you and the owner agree to an outside mediator, please call (510) 238-3721 to make arrangements. Any fees charged by an outside mediator for mediation of rent disputes will be the responsibility of the parties requesting the use of their services.

Mediation will be scheduled only if both parties agree (after both your petition and the owner's response have been filed with the Rent Adjustment Program). **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** Rent Board Regulation 8.22.100.A.

If you want to schedule your case for mediation, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff Hearing Officer (no charge).

Verna J. Ross
Tenant's Signature

2/28/17
Date

VI. IMPORTANT INFORMATION:

Time to File This form must be **received** at the offices of the City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612 within the time limit for filing a petition set out in the Rent Adjustment Ordinance, Oakland Municipal Code, Chapter 8.22. Board Staff cannot grant an extension of time to file your petition by phone. For more information, please call: (510) 238-3721.

File Review

The owner is required to file a Response to this petition within 35 days of notification by the Rent Adjustment Program. You will be mailed a copy of the Landlord's Response form. Copies of **documents attached** to the Response form will not be sent to you. However, you may review these in the Rent Program office by appointment. For an appointment to review a file call (510) 238-3721; please allow six weeks from the date of filing before scheduling a file review.

VII. HOW DID YOU LEARN ABOUT THE RENT ADJUSTMENT PROGRAM?

- Printed form provided by the owner
- Pamphlet distributed by the Rent Adjustment Program
- Legal services or community organization
- Sign on bus or bus shelter
- Other (describe): LARA ZA

ATTACHMENTS
TO
TENANT PETITION

Housing services lost ongoingly: 1) heat/electricity 2) leaky roof 3) blight/lack of cleanliness inside and outside of house of house 4) internet access 5) sex and age discrimination due to ineffective management.

Are you being charged for services originally paid by the owner?

- Landlord notified me on Friday night December 30, 2016, that electricity charges would be accessed in the amount of \$75 effective February 1, 2017. According to our June 7, 2014, rental agreement at page 2, paragraph 4 regarding Utilities, "*Owner will pay for all utilities except excessive Electric amount of which is to be agreed upon at a later date.*"
- Landlord did not provide any calculations/formula for a \$75 charge.
- Landlord claims the excess started in October 2016; yet, landlord failed to provide any notice or electricity bills until December 30, 2016 when he had unilaterally increased electricity from 0 to \$75. Landlord did not provide me with any copies of the utility bills relating to the increase on December 30, 2016 nor soon thereafter.
- Landlord's rent increase of \$60 plus \$75 for electricity totals a \$135 increase or 22.5% increase, which is excessive.
- I reside in the master bedroom which is approximately 19x12 attached to a sun porch which is approximately 5x12, totaling approximately 288 sq. ft., the 2nd largest room in the house 7 room house built in 1925. The second floor where my room is was added on in 1940, but the house has not been winterized and updated in years and has suffered from deferred maintenance, since Landlord inherited it in December 1997.
- Landlord has accessed a \$35 late fee if the \$75 utility bill is not paid by the 7th of the month, even if the rent is paid by the 7th of the month. Landlord's three (3) increases are extraordinary, retaliatory and a pretext to force me to move, because I have reported numerous code violations since June 2016 relating to issues inside and outside the house.

Have you lost services originally provided by the owner or have the conditions changed?

- Landlord's house does not have a furnace with vents for my room or any of the other rooms. Landlord has not provided heat in my room during the winter/cold season starting in October 2014 to present. Landlord has not winterized my room or the house in general with commonly recommended things to do since October 2014 to present. Landlord does not adequately heat the common areas of the house, except when Landlord wants it heated for his personal use, otherwise the temperature of the house is below 64°F and my room is below 64°F consistently, unless I use a portable heater.

Landlord's 10/2/16 Notice of Improvements and Other Issues Incomplete

- Electrical wiring hanging causing health and safety issues in the kitchen area.
- Painting unfinished.
- Carpeting unfinished on stairs and upstairs hallway.
- Kitchen table has a dehydrator and business cooking items on table 24-7. Kitchen chairs have non-working laptop computers on them making eating at the table impossible without moving items.
- Landlord refuses to allow my now 10 year old niece to stay overnight on the premises.
- Landlord refused to allow me parking privileges between January 2016-August 2016 when he allowed Maya those privileges resulted in my being physically assaulted in June 2016 walking from my car at night.

Late Fee Increase

- Landlord increased the late fee twice within a 12 month period.
- Landlord filed an unlawful detainer action against me in May 2015.
- Landlord attached the 6/7/14 rental agreement to the unlawful detainer action he filed in May 2015, not the 2/25/15 rental agreement with the \$20 late fee.
- Landlord did not provide me with a copy of the 2/25/15 rental agreement until August 22, 2016 after I paid my rent late and I questioned him about the \$20 late fee.
- The 2/25/15 rental agreement does not have a date the late fee becomes effective.
- The 2/25/15 rental agreement is facially defective without a date it became effective and should be re-noticed.
- If 2/25/15 rental agreement is valid, then increase became effective on 8/22/16.
- Landlord provided a third rental agreement on December 30, 2016, dated January 1, 2017 with the \$30 late fee increase effective 2/1/17.
- Landlord cannot increase the late fee again until August 22, 2017.

Landlord Violates 60 Days Notice Terminating Tenancy

- Landlord's separate written notice dated 12/30/16 states that if I do not sign this third rental agreement by February 1, 2017, my tenancy is terminated.

Alternatives Offered to Landlord re: Noise, Heat and Cleanliness, Internet & Safety

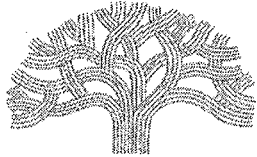
- In 2015 & 2016 repeated requests to Landlord to establish agreed upon times to clean upstairs shared bathroom. Landlord never implemented this after discussion and feedback on standards of cleanliness.
- During the summer and fall of 2015 I asked Landlord if I could relocate to the 1st floor bedroom to be closer to the kitchen and the wall heater. Landlord refused my request.

- In 2014 and 2015, I requested Landlord to buy a stove. Landlord refused, but offered to buy my refrigerator and sofa, which I refused. When Landlord purchased a new stove in November 2016, he had my stove refused when I expressly told him not to.
- I requested locks be placed on my bedroom door and bathroom. After many bathroom mishaps, landlord finally put locks on all doors.
- Internet modem is connected to Landlord's computer in his room. Landlord refuses to place the internet modem from the floor to the ceiling or in a common area. The modem is on the floor and my internet access frequently goes out.
- During the summer 2015, I obtained a device from the internet service provider, which I was willing to pay for, to extend the range to get better internet service after getting no assistance from landlord on this issue. Landlord refused to assist me in setting it up and returned it to the internet provider.
- Landlord refused to talk to the neighbors next door at 6869 (?) Fresno, regarding rooster and chicken violations. I reported neighbors' rooster and chicken violations and problem was resolved.
- Requested landlord to include tenant, Maya (last name unknown), in house meetings for accountability. Landlord refused and maintained she was a guest. Landlord allowed Maya to park on premises and even block driveway. Reported driveway violations on Maya and Landlord to police numerous times.
- Landlord allows tenant/friend, Larry Davis, to raise a garden in the backyard; yet, refuses to allow me to wash my car and removed the water turning device in the front yard.
- Landlord allowed Larry Davis to install a washing machine on the backyard, which could be using too much electricity.
- Landlord allowed Larry Davis to create a separate enclosed space or "mancave" in the backyard below my back window which is an eyesore. His music is heard right outside my window and causes a disturbance.
- Landlord berates me in front of other tenant(s), calls me crazy and tells them not to pay attention to any of my complaints or concerns.
- Landlord needs to be replaced as the manager and turn the job over to unbiased manager who will use the rental proceeds to enhance the house rather than support his personal and business needs.

Dollar value of lost services. I believe the dollar value of lost services, especially heat, ranges between \$100-200 per month.

- My physical and mental health has been significantly compromised because of the coldness of the house, which has resulted in loss of income.
- Electricity outages-Landlord has not provided tenant with any access to circuit breakers when electrical outages occur.

- Landlord has not provided insulation in attic area of house, immediately above my room; nor has Landlord winterized the windows or cracks in the stairs or 1st floor where significant drafts of air and dirt routinely flow.



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

P.O. Box 70243
Oakland, CA 94612-0243
(510) 238-3721

For date stamp
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 MAY -3 PM 4:35

PROPERTY OWNER
RESPONSE

Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T17-0146

Your Name <i>William Page</i>	Complete Address (with zip code) <i>6859 Fresno St Oakland, CA 94605</i>	Telephone: <i>510-504-0316</i>
		Email: <i>bill-page@hotmail.com</i>
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) <i>Verna J. Ross</i>	Complete Address (with zip code) <i>6859 Fresno St. Oakland, CA 94605</i>	
Property Address (If the property has more than one address, list all addresses) <i>6859 Fresno St. Oakland, CA 94605</i>		Total number of units on property <i>1</i>

Have you paid for your Oakland Business License? Yes No Lic. Number: _____
The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes No APN: _____
The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: *11/1/97*

Is there more than one street address on the parcel? Yes No .

Type of unit (Circle One): House / Condominium / Apartment, room, or live-work

I. JUSTIFICATION FOR RENT INCREASE You must check the appropriate justification(s) box for each increase greater than the Annual CPI adjustment contested in the tenant(s) petition. For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent

Board Regulations. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

You must prove the contested rent increase is justified. For each justification checked on the following table, you must attach organized documentary evidence demonstrating your entitlement to the increase. This documentation may include cancelled checks, receipts, and invoices. Undocumented expenses, except certain maintenance, repair, legal, accounting and management expenses, will not usually be allowed.

<u>Date of Contested Increase</u>	<u>Banking (deferred annual increases)</u>	<u>Increased Housing Service Costs</u>	<u>Capital Improvements</u>	<u>Uninsured Repair Costs</u>	<u>Debt Service</u>	<u>Fair Return</u>
2/1/17	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you are justifying additional contested increases, please attach a separate sheet.

II. RENT HISTORY If you contest the Rent History stated on the Tenant Petition, state the correct information in this section. If you leave this section blank, the rent history on the tenant's petition will be considered correct

The tenant moved into the rental unit on 5/1/14.

The tenant's initial rent including all services provided was: \$ 600.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled "NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") to all of the petitioning tenants?

Yes No I don't know

If yes, on what date was the Notice first given? 12/31/16

Is the tenant current on the rent? Yes No

Begin with the most recent rent and work backwards. If you need more space please attach another sheet.

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
12/31/2016	2/1/17	\$ 600.00	\$ 660.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

If you claim that your property is exempt from Rent Adjustment (Oakland Municipal Code Chapter 8.22), please check one or more of the grounds:

The unit is a single family residence or condominium exempted by the **Costa Hawkins Rental Housing Act** (California Civil Code 1954.50, et seq.). **If claiming exemption under Costa-Hawkins, please answer the following questions on a separate sheet:**

1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?
3. Was the prior tenant evicted for cause?
4. Are there any outstanding violations of building housing, fire or safety codes in the unit or building?
5. Is the unit a single family dwelling or condominium that can be sold separately?
6. Did the petitioning tenant have roommates when he/she moved in?
7. If the unit is a condominium, did you purchase it? If so: 1) from whom? 2) Did you purchase the entire building?

The rent for the unit is **controlled, regulated or subsidized** by a governmental unit, agency or authority other than the City of Oakland Rent Adjustment Ordinance.

The unit was **newly constructed** and a certificate of occupancy was issued for it on or after January 1, 1983.

On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** less than 30 days.

The subject unit is in a building that was **rehabilitated** at a cost of 50% or more of the average basic cost of new construction.

The unit is an accommodation in a **hospital, convent, monastery, extended care facility, convalescent home, non-profit home for aged, or dormitory** owned and operated by an educational institution.

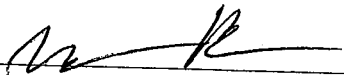
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

IV. DECREASED HOUSING SERVICES

If the petition filed by your tenant claims **Decreased Housing Services**, state your position regarding the tenant's claim(s) of decreased housing services. If you need more space attach a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

V. VERIFICATION

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.



Property Owner's Signature

5/3/2017
Date

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), P.O. Box 70243, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open.

You can date-stamp and drop your Response in the Rent Adjustment drop box at the Housing Assistance Center.. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m.

File Review

You should have received a copy of the petition (and claim of decreased housing services) filed by your tenant. When the RAP Online Petitioning System is available, you will be able to view the response and attachments by logging in and accessing your case files. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

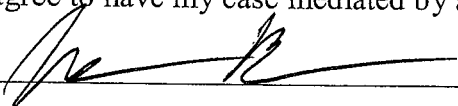
Mediation Program

Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. In mediation, the parties discuss the situation with someone not involved in the dispute, discuss the relative strengths and weaknesses of the parties' case, and consider their needs in the situation. Your tenant may have agreed to mediate his/her complaints by signing the mediation section in the copy of the petition mailed to you. If the tenant signed for mediation and if you also agree to mediation, a mediation session will be scheduled before the hearing with a RAP staff member trained in mediation.

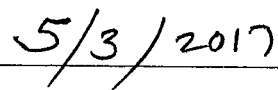
If the tenant did not sign for mediation, you may want to discuss that option with them. You and your tenant may agree to have your case mediated at any time before the hearing by submitted a written request signed by both of you. If you and the tenant agree to a non-staff mediator, please call (510) 238-3721 to make arrangements. Any fees charged by a non-staff mediator are the responsibility of the parties that participate. You may bring a friend, representative or attorney to the mediation session. Mediation will be scheduled only if both parties agree and after your response has been filed with the RAP.

If you want to schedule your case for mediation and the tenant has already agreed to mediation on their petition, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff member at no charge.



Property Owner's Signature



Date

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
 250 Frank H. Ogawa Plaza, Suite 5313
 Oakland, CA 94612
 (510) 238-3721

For date stamp.
 RECEIVED
 CITY OF OAKLAND
 RENT ADJUSTMENT PROGRAM
 2017 MAY 23 PM 3:49
LANDLORD PETITION
FOR CERTIFICATE OF EXEMPTION
(OMC §8.22.030.B)

Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your claim. Before completing this petition, please read the Rent Adjustment Ordinance, section 8.22.030. A hearing is required in all cases even if uncontested or irrefutable.

Section 1. Basic Information

Your Name <i>William R. Page</i>		Complete Address (with zip code) <i>6859 Fresno St. Oakland, CA 94605</i>		Telephone <i>510-504-0316</i> Day: _____
Your Representative's Name		Complete Address (with zip code)		Telephone Day: _____
Property Address <i>6859 Fresno St. Oakland, CA 94605</i>			Total number of units in bldg or parcel.	
Type of units (circle one)	Single-Family Residence (SFR)	Condominium	Apartment or Room	
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Yes	No	
Assessor's Parcel No. <i>39-3303-7</i>				

Section 2. Tenants. You must attach a list of the names and addresses, with unit numbers, of all tenants residing in the unit/building you are claiming is exempt.

Section 3. Claim(s) of Exemption: A Certificate of Exemption may be granted only for dwelling units that are permanently exempt from the Rent Adjustment Ordinance.

New Construction: This may apply to individual units. The unit was newly constructed and a certification of occupancy was issued for it on or after January 1, 1983.

Substantial Rehabilitation: This applies only to entire buildings. An owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project. The average basic cost for new construction is determined using tables issued by the Chief Building Inspector applicable for the time period when the Substantial Rehabilitation was completed.

Single-Family or Condominium (Costa-Hawkins): Applies to Single Family Residences and condominiums only. If claiming exemption under the Costa-Hawkins Rental Housing Act (Civ. C. §1954.50, et seq.), please answer the following questions on a separate sheet:

1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
2. Did the prior tenant leave after being a notice of rent increase under Civil Code Section 827?
3. Was the prior tenant evicted for cause?
4. Are there any outstanding violations of building, housing, fire, or safety codes in the unit or building?
5. Is the unit a single family dwelling or condominium that can be sold separately?
6. Did the current tenant have roommates when he/she moved in?
7. If the unit is a condominium, did you purchase it? If so: 1) from whom? 2) Did you purchase the entire building?
8. When did the tenant move into the unit?

I (We) petition for exemption on the following grounds (Check all that apply):

<input type="checkbox"/>	New Construction
<input type="checkbox"/>	Substantial Rehabilitation
<input checked="" type="checkbox"/>	Single Family Residence or Condominium (Costa-Hawkins)

Section 4. Verification Each petitioner must sign this section.

I declare under penalty of perjury pursuant to the laws of the State of California that everything I stated and responded in this petition is true and that all of the documents attached to the petition are correct and complete copies of the originals.



Owner's Signature

5/23/17

Date

Owner's Signature

Date

Important Information

Burden of Proof The burden of proving and producing evidence for the exemption is on the Owner. A Certificate of Exemption is a final determination of exemption absent fraud or mistake.

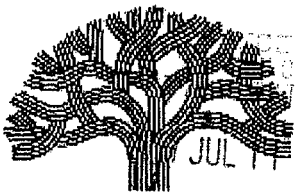
File Review Your tenant(s) will be given the opportunity to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the tenant's Response. Copies of attachments to the Response form will not be sent to you. However, you may review any attachments in the Rent Program Office. Files are available for review by appointment only. For an appointment to review a file, call (510) 238-3721. Please allow six weeks from the date of filing for notification processing and expiration of the tenant's response time before scheduling a file review.

Case No. T17-0146

William Page
5/23/17

1
2
3
4
5
6
7
8

No
No
No
No
No
No
No
5/2/2014



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612
(510) 238-3721

for Date Stamp Only
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 JUL 11 PM 4:36

CASE NUMBER L17-0093

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

Please Fill Out This Form Completely. Failure to provide needed information may result in your response being rejected or delayed.

Your Name <i>VERNA J. ROSS</i>	Complete Address (with Zip Code) <i>Residence Address: 6859 Fresno St. Oakland, CA 94605</i> Mailing Address: PO Box 23371 Oakland, CA 94623	Telephone <i>510-472-2700</i>
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

The unit I rent is:

Room

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

Date you moved into this unit:

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

Increases

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

See Attachment.

Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice): 12/31/16.

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?	
		From	To	Yes	No
12/31/16	2/1/17	\$ 600.00	\$ 660.00	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
12/31/16	2/1/17	\$ 0	\$ 75.00	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
12/31/16	2/1/17	\$ 10.00	\$ 35.00	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

Nema J. Ross
 Tenant's Signature

7/11/17
 Date

 Tenant's Signature

 Date

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

You cannot get an extension of time to file your Response by telephone.

File Review

You should have received with this letter a copy of the landlord petition.

For an appointment to review a file call (510) 238-3721.

Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment.

**ATTACHMENT
TO TENANT RESPONSE
TO LANDLORD'S PETITION FOR CERTIFICATE OF EXEMPTION**

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Substantively, Tenant believes Landlord waived his rights to be exempt from Oakland Rent Control, because Landlord intentionally and actively converted the house from a Single Family Residence (SFR) to a boarding house by his own actions and forever waived the exemption.

Also, Tenant believes Landlord waived his rights when he failed to timely seek a Certificate of Exemption over a twenty (20) period of co-ownership when the Landlord knew the house had been rented by his father prior to him inheriting it.

Prior to April 2014 when I executed a rental agreement with Landlord and after May 2014 when I moved in, the Landlord repeated on numerous occasions that he would have all three (3) units occupied. I even initiated moving some of the junk from the room adjacent to me consistent with that goal, since I was constantly donating personal items to Goodwill's, recycling centers and the like.

When I moved into the property, Francisco Jimenez was the only tenant. In December, unbeknownst to me, Landlord surreptitiously moved Larry Davis, into the room adjacent to me. Davis continues to reside on the property. Once Davis moved in, the landlord was running a boarding house and was no longer eligible for a SFR exemption from Oakland Rent Control laws.

In December 2014, landlord lost his rights to be exempt from Oakland rent control, because he was running a boarding house with three (3) paying tenants. My interpretation of the O.M.C. is the landlord forfeits the exemption when two or more units or occupied and he resides in the third unit on the property. Starting in December 2014, three units were occupied and the landlord resided in the fourth unit.

Francisco moved out in September 2015 or thereabouts. In January 2016, landlord moved another individual into Francisco's former room stating she was visiting for a week or two. I only know her first name is Maya. One week turned into two weeks, two weeks turned into eight (8) months that she occupied the unit until August 2016.

While Landlord will assert that she was not a tenant, California law is very clear when an individual residing on a property beyond a certain period becomes a tenant. I made this known to Landlord after Maya's conduct manifested itself as a tenant with rights and not a guest in her actions in the house. Landlord will assert she was not a paying tenant, but California law does not require the individual pay rent to vest tenant rights and Landlord discriminated against me and for her rights over my rights as a tenant. Lack of monetary payment does not wipe away the tenant rights nor erase the landlord duties. Therefore, the conversion of the property to a boarding house continued during Maya's tenancy.

As late as 10/2/16, when the landlord finally put something in writing stating he would finally be making improvements to a lovely house which had deferred maintenance for almost 20 years, he had the intent to rent out the first floor unit again, thus having four (4) units fully occupied.

But for the fact that I am challenging him on the legality of the rent increases, he would never have petitioned for Cert. This tribunal should not reward him for sitting on his rights for at least four (4) years too long or at worst for 20 years.

Tenant challenges the Landlord's Petition for Certificate of Exemption on the grounds of Waiver of His Rights on Substantive Grounds as Stated Above and Procedural grounds as follows:

Landlord has been operating a raw food business and a computer business from his home without ever getting a license, permit or complying with city, county or State laws for well over ten plus (10+) years.

But for the fact that I am challenging him on his housing rental business, landlord would not have paid his business taxes which he had never filed or paid before, although he has represented himself to the public as an entrepreneur and businessman for over a decade.

Procedurally, Landlord's petition should not be granted, because he failed to timely submit proof of payment of his business taxes and RAP fees when he filed his Response in T17-0146. To date, Landlord has not paid the RAP fee, *because Landlord has a disdain for the law when it does not help him.*

But for the fact that he received a Notice of Deficiency from RAP, he would not have paid the taxes at all which is a pattern Landlord has exhibited too frequently.

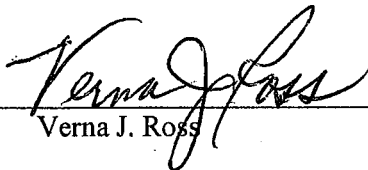
But for the fact that I reported the dismal condition of the interior and exterior of the property to the City of Oakland Building and Permits for housing violations on numerous occasions, Landlord would not have corrected those abysmal conditions. Landlord was given a Notice of Violation dated April 6, 2017 with a re-inspection set for June 5, 2017, as attached hereto.

Landlord failed to cure the violations timely. Again, Landlord has disdain for the law and deadlines and refuses to comply with the law because he continually gets rewarded even when he violates the law. The words "must and shall" carry no weight for Landlord, because he is continuously given a pass.

Procedurally, this body should not reward Landlord's failure to timely pay his business taxes, his failure to pay RAP fees, failure to truthfully disclose the names of tenants residing on the property as requested in Section 2 which says you "MUST" attach a list, failure to truthfully answer question 4 "are there any outstanding violations of building, housing, fire, or safety codes in the unit or building-Landlord answered "No" to Question 4 that he had no housing violations when he filed his Cert. on May 23, 2017 which you can see from the Notice of Violation is blatantly not true.

For all the above reasons and others to be presented at hearing, Tenant's Petition No. T17-0146 should be granted and Landlord's Petition L17-0093 should be permanently denied.

DATED: July 11, 2017



Verna J. Ross

CITY OF OAKLAND



250 FRANK OGAWA PLAZA, SUITE 5313, OAKLAND, CA 94612

Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254

HEARING DECISION

CASE NUMBER: T17-0146, Ross v. Page
L17-0093, Page v. Tenants

PROPERTY ADDRESS: 6859 Fresno Street, Oakland, CA

DATES OF HEARING: September 26, 2017
November 20, 2017

DATE OF DECISION: January 2, 2018

APPEARANCES: Verna Ross, Tenant
William Page, Owner
Jill Broadhurst, Owner Representative (11/20 only)

SUMMARY OF DECISION

The tenant petition is dismissed. The Rent Adjustment Program does not have jurisdiction over the unit in question. The owner petition is denied. The owner has not established his right to a *Certificate of Exemption*.

CONTENTIONS OF THE PARTIES

The tenant filed a petition in case number T17-0146, on March 1, 2017, contesting a rent increase from \$600 to \$660, effective February 1, 2017, on the following grounds:

- The increases exceed the Consumer Price Index (CPI) Adjustment, are unjustified or is greater than 10%;

- The owner did not give me a summary of justifications for the increase despite my written request;
- No written notice of the Rent Program (*RAP Notice*) was given to her at least six months prior to the effective date of the rent increase;
- The contested increase is the second rent increase in a 12-month period; and,
- The notice did not contain the “enhanced notice requirements” of the Ordinance or the enhanced notice was not filed with the RAP.

Additionally, the tenant claimed that her housing services had decreased and that at present there exists a health, safety, fire or building code violation in the unit.

The owner filed a timely response to the tenant petition on May 3, 2017, claiming that the rent increase was justified by banking, increased housing service costs, uninsured repair costs and fair return and denying that the tenant’s housing services had decreased. Additionally, the owner alleged that the unit is located in a building with three or fewer units and that the owner occupies one of the units continuously as his principal residence and has done so for at least one year.

On May 23, 2017, the owner filed a petition in case number L17-0093, in which he sought a *Certificate of Exemption* because the unit is a single family residence.

The tenant did not file a response to the Owner Petition.

THE ISSUES

1. In case T17-0146, did the owner make a reasonable attempt to pay the *RAP fees*, in order to testify at the Hearing?
2. When, if ever, was the tenant provided the *RAP Notice*?
3. At all relevant times, did the tenant live in a building of three or fewer units in which the owner also resided?
4. Is the unit in which the tenant lives temporarily exempt from the *RAP*?
5. Can the tenant’s claims contesting the rent increase or her claims of decreased housing services be considered?
6. Is the tenant entitled to a finding of good cause for the requested subpoena?
7. Is the owner entitled to a Certificate of Exemption based on his claim that the unit is a single family home?
8. Are *RAP fees* required to be paid in this instance?

EVIDENCE

RAP Fees: In the owner’s response to the tenant petition the owner stated that he had not paid his business license or the RAP fees for his unit. He was sent a deficiency notice on May 12, 2017, requesting proof of payment of the Oakland business license and RAP fees. He produced a copy of his business license in response to this letter. At the Hearing held on September 26, 2017, the owner testified that he did not have proof that he paid the *RAP fee*. However, he does not remember whether or not he had paid the fee.

Before the Hearing on November 20, 2017, the owner produced an *Acknowledgment of Payment Received* dated May 16, 2017, showing that the owner had paid the 2014 RAP fees. The owner was requested to produce proof of paying the 2017 RAP fees and a break was held in the Hearing. The owner came back and testified that he tried to pay the RAP fee but was informed by a person in the City office that he did not have to. The owner returned with a document given to him by this City of Oakland employee. The document states that the use code for the building is "single family residence used as such."

Rental History: The tenant testified that she moved into the house at 6859 Fresno Street in May of 2014 at an initial rent of \$600 a month. The house is a 4 bedroom three story house. When she moved in, she rented a bedroom on the third level with shared usage of the kitchen and bathroom and other living areas. Each bedroom has a lock on it which can be locked from both inside and outside. There was another person living there at the time whose name was Francisco Jiminez. The owner, William Page, was also living there when she moved in. She was not given a *RAP Notice* when she moved in. She received a *RAP Notice* for the first time on December 31, 2016.¹

In December of 2014, Larry Davis, a tenant, moved into the bedroom next to Ms. Ross. Mr. Jiminez moved out of the unit in August of 2015. In January of 2016, a young woman named Maya lived in the room previously occupied by Mr. Jiminez. She moved out in approximately August of 2016.

At the time of the Hearings on September 26, 2017, and November 20, 2017, there were only three people living in the home, Mr. Davis, Ms. Ross and the owner, William Page. The tenant testified that the owner has informed her that he wishes to rent the fourth bedroom again.

The owner testified that Mr. Jiminez was a friend who needed help. So he lived in a room in the subject property from April of 2014 through August of 2015 at a reduced rent. Maya was a friend who lived there rent free. Since Maya moved out that bedroom has not been rented the bedroom nor has anyone else lived there. The owner further testified that he is currently reserving the fourth bedroom for cousins or his daughter but that right now it is empty. His plans regarding that room are "up in the air."²

Unit Information: The owner testified that he owns the building with his deceased sister's estate. The building was originally purchased by his parents in 1962 and the owner grew up in the house. He moved out at some point and moved back in approximately 1986, with his father who was still living there. At some point his father moved out and later the owner started to rent out rooms.

The owner testified that he received a *Notice of Violation* from the City of Oakland Planning and Building Department dated April of 2017, regarding overgrown vegetation

¹ The owner agreed with this testimony. See *Owner Response* in case T17-0146.

² Tape Recording September 26, 2017, at 29:00-29:30.

and trash and water intrusion on the ceiling and walls of the bathroom.³ He further testified that he has repaired the violations listed and they have been abated.

Decreased Housing Services: The tenant testified regarding her claims of decreased services. Considering the ruling below that this unit is temporarily exempt from rent control, there is no reason to detail the tenant's claims here.

Subpoena Requested: On September 18, 2017, the tenant filed a written request that a subpoena be issued for documents related to the owner's rental of the premises and the owner's personal information. She sought tax returns; tax applications; house meeting agendas; PG&E statements; EBMUD bills; internet bills; invoices for improvements; written agreements between the owner and prior and current tenants and guests; and car purchase statements.⁴

Her request was denied at the Hearing. (See below.)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In case T17-0146, did the owner make a reasonable attempt to pay the RAP fees, in order to testify at the Hearing?

Oakland Municipal Code § 8.22.500 provides that the Rent Program service fee is to be

“charged against any residential rental unit that is subject to **either** the Rent Adjustment Ordinance, the Just Cause for Eviction Ordinance, or both.”

Since single family dwellings are covered units under the Just Cause for Eviction Ordinance⁵, the service fee applies to single family homes. The service fee does not apply however to those buildings with three or fewer units where the owner occupies one of the units continuously for at least one year.⁶

An owner can only file a response to a tenant petition where he provides evidence of payment of the Rent Program Service fee.⁷ This is true unless it is determined that the unit is in a building with three or fewer units where the owner occupies one of the units.

At the Hearing, the owner was asked to provide evidence of paying the 2017 Rent Program Service fee. He provided proof of having paid the fee for 2014. Thereafter a break in the Hearing was held for him to go to the Business Tax office to pay the remainder of the fee. The owner returned, having been told that he did not have to pay the fee because it was a “single family residential home used as such.”

³ Exhibit 1. This document was admitted into evidence without objection.

⁴ See September 18, 2017, letter to Oakland Rent Adjustment Program/Board in case file T17-0146.

⁵ See list of units exempt from Just Cause at O.M.C. § 8.22.350.

⁶ While the current Ordinance requires that owners live there for two years before the exemption applies, this only applies to those units where the owner moves in to the building after August 1, 2016. In this case the owner has been living there for many years and the one year rule applies to him. O.M.C. § 8.22.030(A)(8) and 8.22.030(D).

⁷ O.M.C. § 8.22.090(B)(1)(b).

While in fact, the owner of a rented single family home is required to pay the RAP fee if the owner is not living there, in this case, the owner made all reasonable efforts to pay the fee. Because he was unable to, the Hearing was held and the owner was allowed to testify.

When, if ever, was the tenant provided the *RAP Notice*?

The Rent Adjustment Ordinance (Ordinance) requires an owner to serve the *RAP Notice* at the start of a tenancy⁸ and together with any notice of rent increase or change in the terms of a tenancy.⁹ An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.¹⁰

All parties agree that the *RAP Notice* was given to the tenant on December 31, 2016.

At all relevant times, did the tenant live in a building of three or fewer units in which the owner also resided?

The RAP program has held that an owner who creates a boarding house within a single family home or duplex is not exempt from the Ordinance if the home can then be considered a building with more than three units based on the actions of the owner. In both *Jin v. Ha Lee*, T14-0284, and *Li v. Liberty Property*, T15-0101, the Housing, Residential, Rental and Relocation Board (HRRRB) held that where an owner subdivides a dwelling unit into more than three rental units, the temporary exemption for an owner occupied duplex or triplex, no longer applies. In both those cases, the owner, while living in a unit, rented single rooms to multiple tenants in various rooms throughout the home.

However, in this case, at all relevant times since August of 2016, the tenant and the owner were residing in a single family home with four bedrooms, but the owner was only renting out two of the bedrooms. He occupied the third bedroom and the fourth bedroom was empty. The fact that the owner had some idea that he might rent the fourth bedroom in the future does not change the result.

Is the unit in which the tenant lives temporarily exempt from the *RAP*?

Buildings with three or fewer units, where the owner occupies one of the units continuously for at least one year, are exempt from the Ordinance.¹¹

While it is true that in a four-plex with four separate units, an owner cannot create an exemption by simply not renting one of the units and then claiming that the building is an owner occupied triplex, this case is different. Here, the owner owns a single family home with four bedrooms. He has the right to change the nature of his home by renting

⁸ O.M.C. § 8.22.060(A)

⁹ O.M.C. § 8.22.070(H)(1)(A)

¹⁰ O.M.C. § 8.22.060 (C)

¹¹ O.M.C. § 8.22.030(A)(8) and 8.22.030(D).

out rooms. If he rents out two rooms, he remains exempt from the Ordinance. If he rents out three rooms, then he is no longer exempt. Since at all times since the tenant filed her petition the owner was living in the unit and was only renting out two bedrooms, with a total of three "units", the unit is temporarily exempt from the Ordinance and the RAP does not have jurisdiction of the tenant's claim.

Can the tenant's claims contesting the rent increase or her claims of decreased housing services be considered?

Since the RAP does not have jurisdiction of the tenant's claim, the tenant's claim of decreased services cannot be considered here.

Is the tenant entitled to a finding of good cause for the requested subpoena?

The tenant sought documents from the Owner by requesting that the RAP issue a subpoena. While the RAP does not issue subpoenas, the RAP can issue a finding of good cause to be brought to the City Clerk, who can issue a subpoena. Nonetheless, the documents the tenant sought were not necessary to determine the issue of whether or not the RAP had jurisdiction over the tenant's claim. Therefore, there was no good cause for the issuance of the subpoena and the tenant's claim was denied.

Is the owner entitled to a Certificate of Exemption based on his claim that the unit is a single family home?

The owner seeks an exemption from the RAP based on his claim that his unit is a single family residence. The house is a 4 bedroom home.

The RAP Ordinance exempts all "dwelling units exempt pursuant to Costa-Hawkins...."¹² Costa-Hawkins provides that a unit is exempt from rent control if "it is alienable separate from the title to any other dwelling unit..."¹³ In this case, the owner has chosen to rent rooms in his four bedroom single family house individually, effectively creating multiple dwelling units. Each person has their own lease, their own room and their own rent. While there are common areas that are shared, the house is not rented as one separate unit. The fact that the tenants and Mr. Page share some portion of the house does not create an exemption. Many apartment houses that are covered by the Ordinance have community space that is shared amongst many tenants.

The owner cannot sell the room Ms. Ross rents separately from any of the other rooms. Hence, it is not separately alienable. The same is true of the other bedroom he rents. The owner has effectively created a rooming house in what used to be a single-family home. Rooming houses are only exempt from the RAP for tenants that do not live in the same room for more than 30 days¹⁴. Since the tenant has resided in her room for more than 30 days her tenancies is not exempt from the RAP on this ground.

¹² O.M.C. § 8.22.030(A)(7)

¹³ Civil Code § 1954.52(A)(3)(a)

¹⁴ O.M.C. § 8.22.030(A)(3)

The owner's unit is not currently being used as a single family home for which a permanent exemption is allowed.

Going forward, are *RAP fees* required to be paid in this instance?

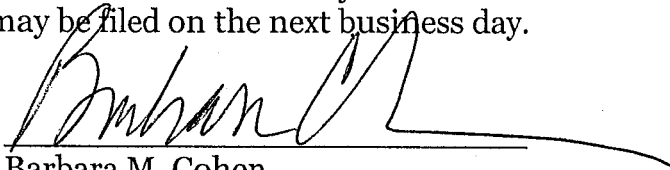
An owner occupied building with three or fewer units is not subject to either the RAP Ordinance or the Just Cause for Eviction Ordinance. It appears from the record, that the only time the owner paid the RAP fee was in 2014. At that time, the owner was renting three bedrooms and residing in one. At that point, the payment of the RAP fee was required.

However, at this point, and at all times the owner only provides housing in two of the four bedrooms in his home (not counting the one he lives in) he is not required to pay the RAP fee.

ORDER

1. Petition T17-0146 is denied. The tenant's unit is temporarily exempt from the RAP Ordinance because she is living in a building of three units or less and the owner also resides in the building.
2. Petition L17-0093 is denied. The owner is not entitled to a permanent exemption because he rents multiple rooms in his home to multiple different tenants.
3. As long as the owner is residing in the subject property and is providing housing to only two other individuals in two separate rooms, he is not subject to the RAP fee. The owner is not entitled to reimbursement for the 2014 RAP fees he has paid.
4. Right to Appeal: **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: January 2, 2018


Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number(s): T17-0146, L17-0093

I am a resident of the State of California at least eighteen years of age. I am not a party to the Residential Rent Adjustment Program case listed above. I am employed in Alameda County, California. My business address is 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California 94612.

Today, I served the attached **Hearing Decision** by placing a true copy of it in a sealed envelope in City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Verna Ross
6859 Fresno Street
Oakland, CA 94605

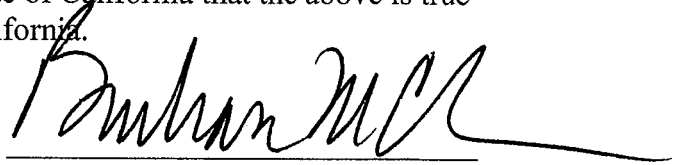
William Page
6859 Fresno Street
Oakland, CA 94605

Jill Broadhurst
Big City Property Group
PO Box 13122
Oakland, CA 94661

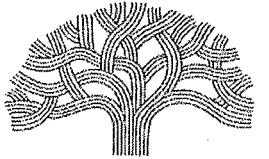
Verna Ross
PO Box 23371
Oakland, CA 94623

I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first class postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 3, 2018, in Oakland, California.



Barbara M. Cohen
Oakland Rent Adjustment Program



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

250 Frank Ogawa Plaza, Suite 5313
Oakland, CA 94612
(510) 238-3721

For date stamp.

2018 JAN 23 AM 9:25

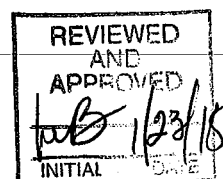
APPEAL

Appellant's Name Verna J. Ross		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 6859 Fresno St., Oakland, CA 94605			
Appellant's Mailing Address (For receipt of notices) P.O. Box 23371 Oakland, CA 94623		Case Number T17-0146 and L17-0093	
		Date of Decision appealed January 2, 2018	
Name of Representative (if any) n/a		Representative's Mailing Address (For notices)	

Please select your ground(s) for appeal from the list below. As part of the appeal, an explanation must be provided responding to each ground for which you are appealing. Each ground for appeal listed below includes directions as to what should be included in the explanation.

- 1) There are math/clerical errors that require the Hearing Decision to be updated. *(Please clearly explain the math/clerical errors.)*
- 2) Appealing the decision for one of the grounds below (required):
 - a) The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.)*
 - b) The decision is inconsistent with decisions issued by other Hearing Officers. *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*
 - c) The decision raises a new policy issue that has not been decided by the Board. *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.)*
 - d) The decision violates federal, state or local law. *(In your explanation, you must provide a detailed statement as to what law is violated.)*
 - e) The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.



000056



- f) **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.)
- g) **The decision denies the Owner a fair return on my investment.** (You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.)
- h) **Other.** (In your explanation, you must attach a detailed explanation of your grounds for appeal.)

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: _____.

You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.

I declare under penalty of perjury under the laws of the State of California that on January 23, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	William R. Page, Jr./IV
<u>Address</u>	6859 Fresno St.
<u>City, State Zip</u>	Oakland, CA 94605
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file is a weekend or holiday, the time to file the document is extended to the next business day.

- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Any supporting argument or documentation to be considered by the Board must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal.
- Any response to the appeal by the other party must be received by the Rent Adjustment Program with a proof of service on opposing party within 35 days of filing the appeal.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

**TENANT
VERNA J. ROSS
APPEAL BRIEF**

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2018 FEB -8 PM 4:58

Re: 6859 Fresno St., Oakland, CA 94605
Case No. T17-0146 and Case No. L17-093 Consolidated
Hearing Dates: September 26, 2017 and November 20, 2017
Exempt or Not Exempt Single Family Residence with 4 Units
Appeal of Hearing Officer Barbara Cohen's Decision in Favor of Landlord
Date of Decision: January 2, 2018

Appellant/Tenant, Verna J. Ross, (hereinafter "Appellant") appeals the Decision (hereinafter "Decision") of Hearing Officer Barbara Cohen, (hereinafter "Cohen") of Ross v. Page and Page v. Ross as follows:

1. There are math/clerical errors that require the Hearing Decision to be updated:

A. The Decision incorrectly states that tenant did not file a response to the Owner's Petition. Attached is a copy of Appellant's ten (10) page response timely filed on July 11, 2017 to Owner's Certificate of Exemption filed on May 23, 2017. Cohen referenced Appellant's response at the September 26, 2017, hearing and the November 20, 2017 hearing; yet, has been omitted.

Attached to Tenant's Response is a copy of Landlord's Notice of Violation regarding blight and water damage dated April 6, 2017. Tenant introduced this into evidence at the hearing, but Cohen did not admit it. Cohen improperly asked Landlord about the Notice of Violation (explained later), which he testified had been cured. Cohen asked for no written proof that the violations had been cured or the fact that they had not been cured when Landlord submitted his Petition, wherein he intentionally misrepresented a documented fact on his Petition.

This clerical error in the Decision should be corrected to reflect that Tenant timely filed a response to Landlord's petition despite the fact that Cohen denied the petition.

B. Cohen failed to raise the issue of the Landlord not providing the Appellant/Tenant with the Notice of Rent Adjustment Program (RAP Notice) until December 31, 2016, when Landlord provided the notices of rent, electricity and late fee increases. This issue should have been addressed by Cohen and a decision accordingly would

2. **Appealing the Decision for one of the grounds below:**

a) **The decision is inconsistent with O.M.C. Chapter 8.22, Rent Board Regulation or prior decisions of the Board.**

In accordance with O.M.C.8.22.030 page 4 of the July 2017 revised O.M.C. and 12538 § 1 (part) 2003, the Exemptions for Owner Occupied Properties applies to Three or Fewer Units, not Four Units as in the instant case where Landlord was occupying one unit and renting three other separate units and thus operating a boarding house within the single family residence. See paragraph (b) below where this Board affirmed Cohen's two Decisions she cited, namely: Li v. Liberty Properties, T15-0101 & T15-0307 and Jin v. Ha Lee, T14-0284.

b) **The decision is inconsistent with decisions issued by other Hearing Officers.**

Appellant asserts that her petition should have been granted on September 26, 2017, since Landlord failed produce evidence of payment of the required Rent Adjustment Program (RAP) fee, despite more than three (3) opportunities to produce the evidence. Cohen continued the hearing on September 26, 2017 supposedly for Cohen to give both parties notice 1) if she would conduct a site visit of the property, 2) a tentative ruling on whether the subject property was exempt from RAP and therefore Landlord would not have to provide proof of the RAP fee if that was her decision.

Appellant was surprised when she received a Notice setting this matter for a second hearing on November 20, 2017, right before Thanksgiving. At this second hearing, Cohen is still asking Landlord for proof of payment of the RAP fee, rather than granting Appellant's petition.

In the case of Marroquin v. Marquardt, April 29, 2015, Hearing Officer Stephen Kasin, granted the tenant's case, citing in part that,

“the enactment of the Just Cause for Eviction Ordinance, the City Council desires to extend the Rent Program Service Fee to all residential rental units covered by either Residential Rent Adjustment Program or the Just Cause for Eviction Ordinance...O.M.C. §§§ on 8.22.500...Therefore, owners of single family homes must pay the RAP fee. Since the owner in this case has not done so, his response is not considered to have been filed, and the tenant's petition must therefore be granted.”

In the instant case, RAP sent a Deficiency Notice to Landlord on May 12, 2017, wherein it stated, “you need to submit proof of payment for Oakland Business Tax License and the Rent Program Service Fee. Please provide proof of both...” The requested information must be submitted within ten (10) calendar days from the date of this letter in order to consider your response.”

Respondent never provided proof of payment of the RAP fee on September 26th even when the hearing officer indicated she would not take testimony from Landlord at the hearing. Unfortunately, Cohen did not follow the precedent of Hearing Officer, Kasdin and grant Appellant’s petition on that date. Further, Cohen proceeded to take testimony from Landlord during the next two hours until she called for a lunch break.

The lunch break lasted approximately 90 minutes. Landlord was approximately 15-20 minutes late returning. After returning from the lunch break, landlord had made no effort to pay the RAP fee or to produce any evidence that he had paid it. The hearing officer continued to elicit and take testimony from landlord. Appellant was unduly biased by Cohen not following precedent in proceeding to take testimony from Landlord.

c) The decision raises a new policy issue that has not been decided by the Board.

Cohen cites in her ISSUES statement at Number 8 on page 2 of her Decision, “**At all relevant times, did the tenant live in a building of three or fewer units in which the owner also resided?**”

Appellant asserts this issue has not been before the tribunal before. Appellant disagrees with Cohen’s analysis and determination of the issue before her. Cohen broadly interpreted the O.M.C. by putting a condition precedent before the language in the statute when she phrases the issue as “all relevant times” did the tenant live in a building of three or fewer units. Appellant asserts that the plain language interpretation of the statute is already stated. Appellant asserts that even with the condition precedent language in Cohen’s issue, the facts are on Appellant’s side. Appellant, at all relevant times, did live in a building of three or fewer units in which the owner also resided? Cohen’s wrongfully focuses on the number of occupants in the units throughout Appellant’s tenancy. Cohen made a point of stating to Appellant that at the time Appellant filed her petition, as well as, at the time of the two hearings there were two occupants. Cohen refused to give credence to the fact that Landlord has just made improvements in October 2016, with the expressed intent of renting out the third unit.

Cohen cites her case of Li v. Liberty Properties, T15-0101 & T15-0307 affirmed by this Appeal Board where she raises the issue at number two (2) as follows, “Is the Unit in a building of three

units or less?" At footnote 16, Cohen references O.M.C. Section 8.22.030. Tenant cited this statute to Cohen on November 20, 2017, as a basis for granting Tenants petition, since it is undisputed that there are four (4) units in the building, one being occupied by the owner and at various times of the tenant's tenancy all of the other three (3) units were rented.

Tenant asserts that Cohen wrongfully broadened the construction of O.M.C. Section 8.22.030 in this instance and reached the wrong conclusion.

Hearing Officer, Stephen Kasdin in Ballard v. JDW Enterprises, Inc., T14-0535, decided on April 3, 2015, correctly posited the issue, "Is the rental unit in which the tenant lives exempt from the Rent Adjustment Ordinance? While the facts in Ballard are different, since the entire house was contractually rented between the owner and the owner was not renting separate bedrooms, as is Tenant's case. The single family house with four (4) bedrooms where the Landlord/co-owner is renting all three bedrooms. origin

Tenant asserts that the analysis Cohen should have been addressing is when a four (4) unit single family residence which has been owner occupied for the requisite mandatory period has been occupied by three tenants does the Owner lose its exemption when all units are not occupied?

Tenant has not found any cases on this issue which have come before the Appeals Board.

The O.M.C. is silent with respect to the issue of time. Cohen's interpretation of the issue automatically sides with the Landlord, but he O.M.C. does not support Cohen's interpretation of "at all relevant times". What constitutes relevant times here is that for more than fifty-percent of the time between May 2014 and August 2016, three (3) of the units were occupied and the property was clearly subject to Oakland to RAP. Cohen stated at the hearings that the issue was, if Landlord was running a boarding house or not. Based on the facts, Landlord was running a boarding house. On September 26th, Landlord testified and even in Cohen's Decision at page 3, Cohen quotes Landlord plans about the third bedroom are, "up in the air". Tape Recording September 26, 2017, at 29:00-29:30.

On said tape, between 29:00-29:30, Landlord testified that his Florida cousin may relocate and move into the unoccupied bedroom, he might get married; he might let his 40 year old daughter move back into the house, etc. None of these possibilities exempts the property from rent control. Absence the occupant staying for less than 30 days under California law, that occupant becomes a tenant. Absent the occupant becoming a co-owner of the property on title, that occupant is a tenant, therefore, making all the persons Landlord testified who might occupy the 4th bedroom-tenants.

Cohen noted in her decision that Landlord's intent to rent the third unit was up in the air which suggest to the reasonable person that Landlord could indeed rent the third unit at any time at his discretion, give a rent increase inconsistent with Oakland rent control, when he is attempting to force a tenant out of the property and if the tenant moves and files a petition, then when that former tenant files a petition, the Landlord has two tenants and not three. Cohen writes in her Decision on page 6, paragraph 1, "If he rents out two rooms, he remains exempt..." "If he rent out three rooms, the he is no longer exempt". Since at all times since the tenant filed her petition the owner was living in the unit and was only renting out two bedrooms with a total of three "units" the unit is temporarily exempt from the Ordinance and RAP does not have jurisdiction of the tenant's claim.

There is clearly a loophole in the O.M.C. the way Cohen interprets and applies it to favor the Landlord.

Cohen's interpretation ties back to the issue that at the time Tenant filed her petition, as well as, at the time of the hearings, the Landlord did not have all three units occupied. Cohen's reads the O.M.C. too broadly in favor of the Landlord and does not follow precedent.

Cohen's narrow view of all relevant times provides any Landlord with the ability to skirt Oakland RAP by randomly having less than the three (3) occupiers in a four unit single-family residence when it suits them. The O.M.C. needs to address this loophole where landlord's can be deemed except, because at the time of filing or a hearing there number of occupied units occupied falls below three (3).

d) The decision violates federal, state or local law.

The laws that are violated are a commonly accepted federal, state and local law which requires you to pay to play. Landlord's failure to pay the RAP fee from 2014-2017. The failure to pay has consequences to the breaching party. O.M.C. says, "MUST PAY". Moreover, Landlord offered no plausible for his failure to provide proof on September 26, 2017, except that the house was exempt in a very bullying and authoritative manner when addressing Cohen. The consequence is you don't get to a voice and you don't get your day in court. Cohen abused her discretion and did not follow long established federal, state and local laws of denying Landlord's response.

Appellant produced documentary evidence that Landlord was a co-owner of the property and with sister, Wendy Ruth Page Madison, deceased as of February 2016. Appellant produced documentary evidence that his deceased sister's estate which is being probated in Solano County

should have been a noticed about the hearings with an opportunity to give evidence in the case. Cohen ruled all this evidence was irrelevant.

Appellant contends that the Estate of Wendy Page Madison had a right to notice of the proceedings and Cohen grilled Appellant about providing said notice. Appellant advised Cohen that on her petition she provided as much information as she had at time she filled her petition. The Alameda County Assessor's Office lists Landlord and Wendy as the Owners of Record at the 6859 Fresno Address for mailing. RAP had a duty to provide notice to Wendy at the same address as Landlord. Failing to do so, violated due process to the co-owner of the property.

e) The decision is not supported by substantial evidence.

Cohen cites two cases where she was the hearing officer, namely: Both cases are dissimilar to Tenant's case. In the Li v. Liberty Property case, Cohen's decision was easy to reach, since the Landlord failed to appear at the hearing to testify. If Cohen had followed Kasin's decision in Marroquin v. Marquardt, where the Landlord appeared without having proof of payment of the RAP fee, Appellant would not be before this tribunal reliving living this hostile retaliatory environment created by the Landlord. In the case of Jin v. Ha Lee, this case was easily decided by Cohen, since the owner did not appear at his hearing. Cohen posits one of her issues on page 2 of Jin v. Ha Lee, as follows: Can the owner's claim of exemption be determined without the owner's testimony?

In the Jin v. Ha Lee, Cohen should have not taken any testimony from the Landlord as if he was not there, since Landlord had failed to provide proof of payment of the RAP fee.

Further, as in Li v. Liberty, Cohen should have followed her own precedent of not admitting Landlord's evidence on November 20, 2017 showing that he had paid RAP fees for 2014. In Li v. Liberty, on page 2 of the Decision, Cohen posits Issue (1), Was there good cause for the tenant's and the owner's representative's failure to produce certain documents prior to the hearing? If yes, can the documents that were not produced prior to the Hearing, be allowed to come into evidence? At page 6 in Cohen's Findings of Fact and Conclusions of Law, she asks, "Are documents that were not produced to the RAP prior to the 1st Hearing admissible?"

Cohen allowed both parties to produce and she admitted documents. Appellant's subpoena requested documents from the County of Alameda and the City, Cohen concluded there was no good cause and denied Appellant's request. This is contrary to findings of fact and law which she allowed in Li v. Liberty.

f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.

Appellant/Tenant provided over 200 pages of documents and/or pictures to impugn the credibility of Landlord regarding housing violations, decreases in services; however, Cohen did not admit most of this evidence as irrelevant. Appellant knows that all witnesses credibility are at issue in deciding a case. Landlord's credibility is an issue on the Response he filed to Tenant's petition, as well as, his own Petition for Exemption. On both documents he misrepresented facts directly or by omission.

Cohen cites the issue as, "Is the tenant entitled to a finding of good cause for the requested subpoena?"

Tenant disagrees with Cohen's denial of the request for issuance of good cause for a subpoena, since Tenant wanted copies of documents landlord filed with the City, Franchise Tax Board and IRS relating to income received and taxes paid. These documents would be evidence of landlord's truthfulness about the number of tenants occupying the property and when and the amount of rental income collected. These documents would have proof of Landlord's untruthfulness to RAP.

h) Other.

Landlord consistently and intentionally misrepresented facts to RAP under penalty of perjury under the Laws of the State of California.

On August 17, 2017, **(not August 1, 2017 as stated in the Order by the hearing officer)** Landlord filed his Request to Change the Date of the Proceeding from September 1, 2017 to September 26 or 27, 2017 and asserted under penalty of perjury that petitioner had agreed to continue the hearing from September 1, 2017 to September 26, 2017 or September 27, 2017. Landlord attached no documentary evidence that petitioner had agreed to this continuance, nor did landlord explain the need for a continuance except that he needed it.

In actually, petitioner had no knowledge that landlord wanted a continuance. Despite living under the same roof, landlord and tenant, rarely speak and tenant tries not to have physical communications with landlord unless absolutely necessary. Tenant found out by happenstance

about the request for a continuance. Cohen's Order granting this continuance without the landlord providing written proof from the Tenant and made short order of Tenant's assertions that this is another example of landlord's misrepresentations to the RAP. Again, Cohen cited my statements about landlord's credibility on this point were irrelevant.

Tenant filed a petition on March 1, 2017. The tenant petition was originally set for hearing on Tuesday, June 27, 2017. After Landlord filed his Petition for Permanent Exemption on May 23, 2017, the RAP consolidated the cases and set the hearing for September 26, 2017. However, the Notice of the Hearing on the Petition for Permanent Exemption and the Notice Resetting the consolidated cases to August 4, 2017. On July 31, 2017, Appellant filed a request for a continuance due to medical reasons with medical proof of illness and the matter was set for hearing on September 1, 2017. ical reasons and then to September 26, 2017 by request of landlord by deceit and misrepresentation to RAP by landlord/respondent.

Respondent filed his response to petitioner's contest on Wednesday, May 3, 2017, without one scintilla of documentation to support his claims, despite the fact that his response form states, "you must prove the contested rent increase is justified". Respondent checked "Banking" deferred annual increases, increased housing service costs, uninsured repair costs and fair return as his reasons for repudiating petitioner's contests, but provided no documentation as required. Respondent failed to provide any evidence repudiating petitioner's claims of decreased housing services, except to confirm via oral testimony at the hearing that none of the bedrooms have any heating units.

In landlord's Response filed on May 3, 2017, in Section III. EXEMPTION, he checked the box that states, "The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year. Respondent knew when he answered this question on the form that the house has four (4) bedrooms; he knew he has had three (3) tenants; yet, he intentionally misrepresented information to RAP. Respondent did admit when asked by the hearing officer that the house has four (4) bedrooms. Respondent admitted he had three tenants in the unit from December 14, 2014 - August/September 2015. Respondent admitted Maya, his friend, possibly more, resided in the unit from January 2016 - August 2016, along with petitioner and Larry Davis.

Petitioner recaps her assertions from the hearing and presents additional assertions and clarifications for consideration on whether the property is exempt from O.M.C. merely because it is a single family residence (SFR) as asserted by the respondent.

Tenant disagrees with Cohen's conclusion that Landlord "made all reasonable efforts to pay the fee." Landlord had four months from May 12, 2017 to September 26, 2017 to pay the fees. Landlord had up to and including November 20th to pay the additional RAP fees and he did not.

Cohen erred in her assessment that the RAP fee Landlord paid for 2014 was sufficient. Clearly from the evidence by both Appellant and Landlord, Landlord had 4 units occupied from December 2014 through August 2016. Cohen erred in her decision not accessing Landlord for RAP fees for 2014, 2015 and 2016.

Landlord's pattern of behavior of not paying business taxes and fees timely is based on Landlord's personal code of who and when he should pay the government fees and taxes. Tenant provided evidence of Landlord's pattern of selling food prepared at his home without a license, operating a computer repair business from his home without paying business taxes. The hearing officer refused to admit these documents into evidence as irrelevant. Yet, Cohen takes the Landlord's word about what was told to him by the City tax office on November 20th and wrongfully proceeds with the hearing and takes Landlord's testimony.

Cohen erred in considering any testimony from Landlord on Tenant's petition. Nonetheless, the hearing officer took responses under penalty of perjury from landlord and tenant. Landlord presented not one scintilla of documentary evidence to support any responses to the hearing officer's numerous questions. If Appellant had not been current with the rent, Cohen would clearly not have allowed Appellant to testify on Landlord's petition.

Petitioner asserts Cohen must follow precedent set by RAP when fees are not paid and should have granted Appellant's on all the above stated basis.

Further, O.M.C. 8.22.110 Hearing Procedure states, "Mere inconvenience or difficulty in appearing shall not constitute "good cause". Cohen continued this hearing without any documentary evidence and did not correct the record to reflect my objections that Landlord had misrepresented that Appellant consented to a continuance.

2. On May 23, 2017, the same day landlord filed proof of payment of the City of Oakland business rental taxes, he also filed his Landlord Petition for Certificate of Exemption (O.M.C. § 8.22.030.B). In this document where landlord signed under penalty of perjury under the laws of the State of California, landlord failed to comply with Section 1, stating the number of units in the building or parcel. Landlord failed to complete Section 2. Tenants. He failed to provide the names and addresses of all tenants residing in the unit/building which he claimed is exempt. In Section 3, which applies to Single Family Residences, question number 4 asks, "Are there any outstanding violations of building, housing, fire, or safety codes in the unit or building?"

Landlord answered, "no". When petitioner filed her response on July 11, 2017, she provided proof that landlord had misrepresented information to this tribunal. The hearing officer asked landlord the status of the violation and he answered, but provided no written documentation.

3. Petitioner provided 158 supplemental pages of documents that impeached the credibility of landlord/respondent going to his intent to have the 4 unit property rented continuously. The hearing officer did not allow most of this evidence. When petitioner's evidence pointed to landlord's 2009 Alameda County Superior Court Case where he was a defendant for breach of contract on a Visa credit card which led to a Writ to Sell the property in 2010; where landlord filed Chapter 7 bankruptcy in 2013 to prevent the sale of the house, Alameda County Sale Date of March 15, 2015, to auction the house for delinquent property taxes under \$10,000, all this was deemed irrelevant to show landlord's intent to continuously rent all three units.

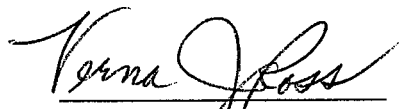
Therefore, 6859 Fresno is not exempt from Oakland Rent Control Laws and Cohen erred in her decision. Appellant requests Cohen's decision be overruled and grant Appellant's Appeal.

DISCLAIMER

Appellant apologizes for the redundancy of information in this brief. However, since Appellant was constructively evicted from the property and turned in her keys to Landlord on January 7, 2018, Appellant has been living from pillar to post without a stable living environment. Appellant has been displaced and it has been highly stressful and difficult over the last 30 plus days without a stable living environment. Appellant's computer and printer were having problems; yet, Appellant wanted to timely file this brief with all the redundancies.

Respectfully submitted,

Dated; February 8, 2018

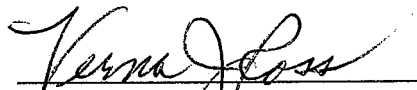

Verna J. Ross

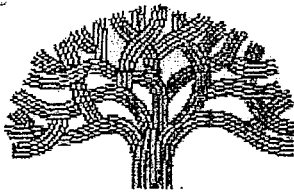
PROOF OF SERVICE

I, Verna J. Ross, deposited in the U.S. mail the Appellant's Appeal Brief to William R. Page, Landlord/Respondent, on February 8, 2018 to the address at 6859 Fresno St., Oakland, CA 94605.

I declare under penalty of perjury under the laws of the State of California the above is true and correct. Executed on February 8, 2018, in Oakland, CA.

Dated: February 8, 2018


Verna J. Ross



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612
(510) 238-3721

for Date Stamp Only
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 JUL 11 PM 4:36

CASE NUMBER L17-0093

**TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION**

Please Fill Out This Form Completely. Failure to provide needed information may result in your response being rejected or delayed.

Your Name <i>VERNA J. ROSS</i>	Complete Address (with Zip Code) <i>Residence Address: 6859 Fresno St. Oakland, CA 94606</i> Mailing Address: PO Box 2357 Oakland, CA 94623	Telephone <i>510-472-2700</i>
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: The unit I rent is:

Room a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit: Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent *Increases*

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>
¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. **Explain** below why you believe your landlord's claim that your unit is exempt is incorrect.

See Attachment.

Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice): 12/31/16.

List all increases you received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
12/31/16	2/1/17	\$ 600.00	\$ 660.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
12/31/16	2/1/17	\$ 0	\$ 75.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
12/31/16	2/1/17	\$ 10.00	\$ 35.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

Vernia J. Ross
 Tenant's Signature

7/11/17
 Date

 Tenant's Signature

 Date

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

You cannot get an extension of time to file your Response by telephone.

File Review

You should have received with this letter a copy of the landlord petition.
 For an appointment to review a file call (510) 238-3721.

Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment.

To: Verna Ross

6859 Fresno Street

Oakland, CA 94605

December 31, 2016

Here are two copies of the Oakland Rent Adjustment Program (RAP). Please read, date, and sign one copy and return to me. Keep the other copy for your records.

Thank you,

William Page



P.O. BOX 70243, OAKLAND, CA 94612-2043
 Department of Housing and Community Development
 Rent Adjustment Program

TEL (510) 238-3721
 FAX (510) 238-6181
 TDD (510) 238-3254

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. It does not apply to subsidized units, most single family dwellings, condominiums and some other types of units. For more information on which units are covered, contact the RAP office.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase ("CPI increase"). An owner can increase rent more than the CPI rate, but with limits, for: capital improvements, operating expense increases, and deferred annual rent increases ("banking"). No annual rent increase may exceed 10%. The owner must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing. If the owner decreases your housing services, this may be an increase in your rent. Decreased housing services include substantial problems with the condition of a unit.
- **Contesting a Rent Increase:** If the owner gave this Notice to Tenants at the beginning of your tenancy, you must file a petition: (1) within ninety (90) days of the notice of rent increase if the owner also provided this Notice to Tenants with the notice of rent increase; or (2) within 120 days of the notice of rent increase if this Notice to Tenants was not given with the notice of rent increase. If the owner did not give this Notice to Tenants at the beginning of your tenancy, you must file a petition within ninety (90) days of first receiving this Notice to Tenants. Information and the petition forms are available from the RAP drop-in office at the Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6th Fl., Oakland and at: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. After your petition is filed, if the rent increase notice separately states the amount of the CPI rate, you have to pay your rent plus the CPI increase. If the CPI rate has not been stated separately, you may pay the rent you were paying before the rent increase notice. If the increase is approved and you did not pay it you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Your payment for the annual fee is not part of the rent. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit _____, the unit you intend to rent.
- Smoking (circle one) IS or IS NOT permitted in other units of your building. (If both smoking and non-smoking units exist in tenant's building, attach a list of units in which smoking is permitted.)
- There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at _____.

I received a copy of this notice on _____ (Date) _____ (Tenant's signature)

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

Baún Thoâng Baùo quyeàn lôii cuâa ngôðøi thueâ trong Oakland nàøy cuõng còu baèng tieáng Viêät. Ñeã còu moät baùn sao, xin goii (510) 238-3721.



P.O. BOX 70243, OAKLAND, CA 94612-2043
 Department of Housing and Community Development
 Rent Adjustment Program

TEL (510) 238-3721
 FAX (510) 238-6181
 TDD (510) 238-3254

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. It does not apply to subsidized units, most single family dwellings, condominiums and some other types of units. For more information on which units are covered, contact the RAP office.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase ("CPI increase"). An owner can increase rent more than the CPI rate, but with limits, for: capital improvements, operating expense increases, and deferred annual rent increases ("banking"). No annual rent increase may exceed 10%. The owner must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing. If the owner decreases your housing services, this may be an increase in your rent. Decreased housing services include substantial problems with the condition of a unit.
- Contesting a Rent Increase:** If the owner gave this Notice to Tenants at the beginning of your tenancy, you must file a petition: (1) within ninety (90) days of the notice of rent increase if the owner also provided this Notice to Tenants with the notice of rent increase; or (2) within 120 days of the notice of rent increase if this Notice to Tenants was not given with the notice of rent increase. If the owner did not give this Notice to Tenants at the beginning of your tenancy, you must file a petition within ninety (90) days of first receiving this Notice to Tenants. Information and the petition forms are available from the RAP drop-in office at the Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6th Fl., Oakland and at: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. After your petition is filed, if the rent increase notice separately states the amount of the CPI rate, you have to pay your rent plus the CPI increase. If the CPI rate has not been stated separately, you may pay the rent you were paying before the rent increase notice. If the increase is approved and you did not pay it you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Your payment for the annual fee is not part of the rent. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit _____, the unit you intend to rent.
- Smoking (circle one) IS or IS NOT permitted in other units of your building. (If both smoking and non-smoking units exist in tenant's building, attach a list of units in which smoking is permitted.)
- There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at _____.

I received a copy of this notice on _____ (Date) _____ (Tenant's signature)

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

Bản Thông Báo quyền lợi của người thuê ở trong Oakland này cũng có bằng tiếng Việt. Nếu có mặt bản sao, xin gọi (510) 238-3721.

left in
envelope
12/31/16
after 5pm

To: *Verna Ross*

6859 Fresno Street

Oakland, CA 94605

This Notice is to inform you that beginning on, *February 1, 2017*, the monthly rent for the room you currently occupy, which is located at, *6859 Fresno Street, Oakland, CA*, will be increased to *\$660.00* per month. This rental payment is due on or before the 7th day of each month.

If you wish to continue your tenancy, the new monthly rental payment of \$660.00 is required. Please be advised that on February 1, 2017 a utility fee of \$75.00 per month will also be required and the late payment fee is increased to \$30.00 for all payments made after the 7th day of each month. All other terms of your original rental agreement remain in effect.

Please sign the Notice below, indicating your agreement and continued tenancy or indicating your disagreement and subsequent termination of tenancy.

Thank you. We appreciate your continued tenancy.

Sincerely,

William Page

Landlord's Signature: *W Page*

Date: *12/30/2016*

- Agree
- Disagree

Tenant's Signature: _____

Date: _____

**ATTACHMENT
TO TENANT RESPONSE
TO LANDLORD'S PETITION FOR CERTIFICATE OF EXEMPTION**

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Substantively, Tenant believes Landlord waived his rights to be exempt from Oakland Rent Control, because Landlord intentionally and actively converted the house from a Single Family Residence (SFR) to a boarding house by his own actions and forever waived the exemption.

Also, Tenant believes Landlord waived his rights when he failed to timely seek a Certificate of Exemption over a twenty (20) period of co-ownership when the Landlord knew the house had been rented by his father prior to him inheriting it.

Prior to April 2014 when I executed a rental agreement with Landlord and after May 2014 when I moved in, the Landlord repeated on numerous occasions that he would have all three (3) units occupied. I even initiated moving some of the junk from the room adjacent to me consistent with that goal, since I was constantly donating personal items to Goodwill's, recycling centers and the like.

When I moved into the property, Francisco Jimenez was the only tenant. In December, unbeknownst to me, Landlord surreptitiously moved Larry Davis, into the room adjacent to me. Davis continues to reside on the property. Once Davis moved in, the landlord was running a boarding house and was no longer eligible for a SFR exemption from Oakland Rent Control laws.

In December 2014, landlord lost his rights to be exempt from Oakland rent control, because he was running a boarding house with three (3) paying tenants. My interpretation of the O.M.C. is the landlord forfeits the exemption when two or more units occupied and he resides in the third unit on the property. Starting in December 2014, three units were occupied and the landlord resided in the fourth unit.

Francisco moved out in September 2015 or thereabouts. In January 2016, landlord moved another individual into Francisco's former room stating she was visiting for a week or two. I only know her first name is Maya. One week turned into two weeks, two weeks turned into eight (8) months that she occupied the unit until August 2016.

While Landlord will assert that she was not a tenant, California law is very clear when an individual residing on a property beyond a certain period becomes a tenant. I made this known to Landlord after Maya's conduct manifested itself as a tenant with rights and not a guest in her actions in the house. Landlord will assert she was not a paying tenant, but California law does not require the individual pay rent to vest tenant rights and Landlord discriminated against me and for her rights over my rights as a tenant. Lack of monetary payment does not wipe away the tenant rights nor erase the landlord duties. Therefore, the conversion of the property to a boarding house continued during Maya's tenancy.

As late as 10/2/16, when the landlord finally put something in writing stating he would finally be making improvements to a lovely house which had deferred maintenance for almost 20 years, he had the intent to rent out the first floor unit again, thus having four (4) units fully occupied.

ATTACHMENT
TO TENANT RESPONSE
TO LANDLORD'S PETITION FOR CERTIFICATE OF EXEMPTION

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Substantively, Tenant believes Landlord waived his rights to be exempt from Oakland Rent Control, because Landlord intentionally and actively converted the house from a Single Family Residence (SFR) to a boarding house by his own actions and forever waived the exemption.

Also, Tenant believes Landlord waived his rights when he failed to timely seek a Certificate of Exemption over a twenty (20) period of co-ownership when the Landlord knew the house had been rented by his father prior to him inheriting it.

Prior to April 2014 when I executed a rental agreement with Landlord and after May 2014 when I moved in, the Landlord repeated on numerous occasions that he would have all three (3) units occupied. I even initiated moving some of the junk from the room adjacent to me consistent with that goal, since I was constantly donating personal items to Goodwill's, recycling centers and the like.

When I moved into the property, Francisco Jimenez was the only tenant. In December, unbeknownst to me, Landlord surreptitiously moved Larry Davis, into the room adjacent to me. Davis continues to reside on the property. Once Davis moved in, the landlord was running a boarding house and was no longer eligible for a SFR exemption from Oakland Rent Control laws.

In December 2014, landlord lost his rights to be exempt from Oakland rent control, because he was running a boarding house with three (3) paying tenants. My interpretation of the O.M.C. is the landlord forfeits the exemption when two or more units or occupied and he resides in the third unit on the property. Starting in December 2014, three units were occupied and the landlord resided in the fourth unit.

Francisco moved out in September 2015 or thereabouts. In January 2016, landlord moved another individual into Francisco's former room stating she was visiting for a week or two. I only know her first name is Maya. One week turned into two weeks, two weeks turned into eight (8) months that she occupied the unit until August 2016.

While Landlord will assert that she was not a tenant, California law is very clear when an individual residing on a property beyond a certain period becomes a tenant. I made this known to Landlord after Maya's conduct manifested itself as a tenant with rights and not a guest in her actions in the house. Landlord will assert she was not a paying tenant, but California law does not require the individual pay rent to vest tenant rights and Landlord discriminated against me and for her rights over my rights as a tenant. Lack of monetary payment does not wipe away the tenant rights nor erase the landlord duties. Therefore, the conversion of the property to a boarding house continued during Maya's tenancy.

As late as 10/2/16, when the landlord finally put something in writing stating he would finally be making improvements to a lovely house which had deferred maintenance for almost 20 years, he had the intent to rent out the first floor unit again, thus having four (4) units fully occupied.



CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA • SUITE 2340 • OAKLAND, CALIFORNIA 94612-2031
 Planning and Building Department (510) 238-6402
 Bureau of Building FAX:(510) 238-2959
 Building Permits, Inspections and Code Enforcement Services TDD:(510) 238-3254
www.oaklandnet.com

NOTICE OF VIOLATION

April 6, 2017

Certified and Regular mail

To: PAGE WILLIAM JR & MADISON WENDY
 6859 FRESNO ST
 OAKLAND CA 94605

Code Enforcement Case No.: 1700443
 Property: 6859 FRESNO ST
 Parcel Number: 039- -3303-007-00
 Re-inspection Date:6/5/17

Code Enforcement Services inspected your property on 3/14/17 and confirmed:

- that the violations of the Oakland Municipal Code (OMC) marked below are present.
 that work was performed without permit or beyond the scope of the issued permit and you are receiving this Notice of Violation because you did not get the required permit within three (3) days of receiving the Stop Work Order. You must contact the inspector indicated below before the Re-inspection Date to stop further code enforcement action.

Photo	Description of Violation	Location	OMC Section
	Property Maintenance		
Yes	Blighted property with overgrown vegetation, trash and debris and unapproved open storage. Remove blighted conditions.	All 4 sides of the property.	8.24.020 D 1, 10
	Building Maintenance (Code)		
Yes	Water intrusion on the ceiling and walls of the 2 nd story bathroom. Repair / paint wall and ceiling in the bathroom.	2 nd floor bathroom.	15.08.230 O 15.08.140

At this point no fees or other charges have been assessed for these violations. To stop further code enforcement action, you are advised to correct the above violations and contact Inspector Robert Walker, who is assigned to your case, before the re-inspection date shown above to schedule an inspection. Your inspector is available by phone at 510-238-4773 and by email at rwalker@oaklandnet.com.

If the Property Owner Certification is included in this notice you may also complete the form and include photographs of the corrected violations.

Note: If a complaint is filed regarding the same or similar violation(s) and it is confirmed within 24 months from the date of this notice an immediate assessment of \$1,176.00 will be charged as a Repeat Violation. In addition, if violation(s) remain uncorrected after I receive a 30 day Notice of Violation further enforcement action(s) will include additional fees.

If you do not contact your inspector to discuss why you cannot comply or if applicable, complete the Property Owner Certification form and the re-inspection verifies that all violations have not been corrected, you may be charged for inspection and administrative costs, which can total **\$2,665.00**. The City may also abate the violations and charge you for the contracting and administrative costs, which can also total over \$1,000.00. In addition, Priority Lien fees in the amount of \$1,926.00 may be assessed if fees are not paid within 30 days from the date of the invoice. Charges may be collected by recording liens on your property and adding the charges to your property taxes or by filing in Small Claims or Superior Court. Furthermore, this Notice of Violation may be recorded on your property.

You have a right to appeal this Notice of Violation. You must complete the enclosed Appeal form and return it with supporting documentation in the enclosed envelope. If Code Enforcement Services does not receive your written Appeal within 30 days of the date of this notice, you will waive your right for administrative review. *Note: Incomplete appeals including, but not limited to an oral notification of your intention to appeal, a written appeal postmarked but not received by us within the time prescribed or a written appeal received by us without a filing fee are not acceptable and will be rejected.*

If you choose to file an appeal no further action can be taken by Code Enforcement Inspectors until you have had the opportunity to be heard by an independent Administrative Hearing Examiner pursuant to the Oakland Municipal Code Section 15.08.380 (B)(3) and a Final Decision is determined. An appeal will be scheduled within 60 days from the date the appeal was filed. A filing fee in the amount of **\$110.00** is due at the time of submittal. Payments may be made in person at the Bureau of Building, 250 Frank Ogawa Plaza, 2nd Floor, Cashiering Section or by phone by calling 510-238-4774 (Please include the receipt number and date on your appeal). MasterCard and Visa are accepted.

Administrative Hearing Fees

Filing Fee	\$ 110.00
Conduct Appeals Hearing Processing Fee	Actual Cost Appeal (Fee charged only if Appellant loses appeal)
Reschedule Hearing	\$ 931.00
	\$ 329.00

Fees Include 9.5% Records Management Fee and 5.25% Technology Enhancement Fee

Sincerely,

Robert Walker

Planning and Building Department

Enclosures as applicable:

- Blight brochure
- Property Owner Certification
- Lead Paint brochure
- Photographs
- Residential Code Enforcement brochure
- Mold and Moisture brochure
- Undocumented Dwelling Units brochure
- Stop Work brochure
- Vehicular Food Vending brochure
- Pushcart Food Vending brochure
- Smoke Alarms brochure
- Condominium Conversion brochure

21

000079

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

OAKLAND RENT ADJUSTMENT PROGRAM (RAP)
DECLARATION AND CORRECTED PROOF OF SERVICE
2018 FEB 9 PM 4:13

Consolidated Cases
T17-0146 &
L17-0093

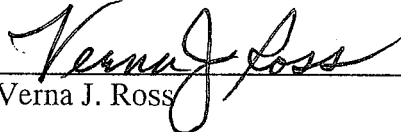
On Thursday, February 8, 2018, I filed my Appeal Brief with the Oakland Rent Adjustment Program at 4:59 p.m.

I went to the U.S. Post Office on Clay St. to mail the Brief to William R. Page, Jr./IV, as I indicated on the proof of service attached to my Brief. However, I did not have my purse, my wallet or any cash and could not pay the postage. I had inadvertently left my purse at the library rushing to get to RAP to timely file my brief by 5:00 p.m. Because of rush hour traffic, by the time I retrieved my purse and traveled to the closest post office, it was closed and I was not able to mail the brief as stated in my proof of service.

Therefore, I am submitting this Declaration and Corrected Proof of Service showing that I, Verna J. Ross, deposited in the U.S.P.S. mail the Appellant's Appeal Brief to William R. Page, Jr./IV, Landlord/Respondent, on February 9, 2018 to the address at 6859 Fresno St., Oakland, CA 94605.

I declare under penalty of perjury under the laws of the State of California the above is true and correct. Executed on February 9, 2018, in Oakland, CA.

Dated: February 9, 2018


Verna J. Ross

2018 FEB -9 PM 4:14

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

000080